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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

FEDERAL REPUBLIC OF GERMANY

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Convention of the United Nations on the Elimination of
All Forms of Discrimination against Women
Report of the Federal Republic of Germany

B a s i s

(1) The Government of the Federal Republic of Germany attaches major importance to the elimination of all forms of discrimination against women. This view is shared unconditionally by all social and political groups in the Federal Republic of Germany.

(2) In 1985, the Federal Republic of Germany ratified the Convention on the Elimination of All Forms of Discrimination against Women, dated 18 December 1979, in order also to demonstrate in contractually binding form its contribution towards equal rights for men and women throughout the world. The Act was promulgated in the Federal Law Gazette on 25 April 1985 and came into force on the following day. The Convention was ratified with the proviso that Article 7, letter b of the Convention should not be applied, insofar as it contradicts Article 12 a, Para. 4, second sentence, of the Basic Law. Apart from this restriction, the provisions of the Act (and thus of the Convention) are directly enforceable law.

(3) The obligations to be derived from the Convention correspond to the declared policy of the Federal Government of turning the equal rights of women and men into a social reality. The Federal Government is countering remaining discrimination with a package of measures in the individual spheres of life.

(4) The Federal Republic of Germany is submitting its first report in accordance with Article 18 of the Convention. It provides a detailed description of the legislative, judicial, administrative and other measures adopted with the aim of achieving equal rights for women.

Part I: Living conditions of women in the Federal Republic of Germany

1. Legal and political background conditions

(5) In view of their major social importance, fundamental provisions on the equal rights of men and women have been included in the constitution, that is to say in the Basic Law of the Federal Republic of Germany, dated 23 May 1949. Article 3, Para. 2 states:

"Men and women shall have equal rights".

(6) Furthermore, Article 3, Para. 3, of the Basic Law affords protection against discrimination by specifying that no one may be prejudiced or favoured "because of their sex".

(7) Article 3 of the Basic Law belongs to the basic rights guaranteed in the constitution and, therefore, to the provisions which, as specified in Article 1, Para. 3, of the Basic Law, bind the legislature, the executive and the judiciary as directly enforceable law. This means that Article 3 contains - like the other basic rights in the Basic Law - not simply a programmatic statement, but that it is legally binding. Every national or foreign citizen is equally entitled to invoke Article 3 of the Basic Law. Parliaments, administrative authorities and courts are obliged to give direct consideration to this basic right (and all other basic rights) in all decisions taken by them.

(8) Since family law, in particular, did not comply with the requirement for equal rights when the Basic Law came into force, and since wide-ranging amendments were necessary, the temporary ruling of Article 117, Para 1, of the Basic Law ordered that law which conflicted with Article 3, Para. 2, of the Basic Law should remain in force, allowing the legislature a period up to 31 March 1953 to make the necessary adaptations of the national law. When it proved impossible to adapt the legislation within this period, the equal rights of the sexes in matrimonial and family law was implemented by judicial law due to the direct applicability of Article 3, Para. 2, of the Basic Law until entry into force of the Equal Rights Act on 18 July 1957.

2. Economic and social background conditions

(9) Regardless of the tense situation in the labour market, the gainful employment of women has continued to increase over the last few years. Thus, the number of gainfully employed women rose from 9.6 million in 1975 to approx. 9.9 million in 1986 (+ 268,000 or 2.7%), while the number of gainfully employed men fell by roughly 1.8% over the same period. The share of women in the total working population increased from 37.2% in 1975 to 38.3% in 1986. The employment ratio of women (share of employed persons, i.e. gainfully employed and unemployed persons aged between 15 and 65 years, in the corresponding resident population) rose from 49.0% in 1960 to a value of 52.7% in 1985, following a drop to 46.2% in 1970 (the figure for men fell from 94.9% to 83.9%).

(10) The number of women engaged in employment subject to social insurance contributions also rose from 7.7 million at the end of 1978 to approx. 8.4 million (+ 8.3%) at the end of 1986, the figure for men declining from 12.6 million to 12.4 million (- 1%).

(11) There was a pronounced increase in part-time employment. While roughly 1 million persons were engaged in part-time employment in 1960, the figure had already risen to some 3.1 million by 1984. Some 93% of this total are women. The number of women in part-time employment subject to social insurance contributions increased from 1.4 million on the annual average for 1978 to over 1.8 million at the end of 1986.

(12) The growth in employment in the years 1983 to 1986 mainly benefited women, with an increase of some 281,000 (63.3%). The number of employed men only rose by roughly 174,000 (36.7%). This development was favoured by the growth in employment in the service industries and retail trade, together with the fact that the branches of industry traditionally employing a high percentage of women, such as the electrical engineering industry and manufacturers of electronic data processing equipment, took on a particularly large number of new employees.

(13) In 1985, the number of gainfully employed women increased far more rapidly than would have been expected on the basis of population growth. This indicates a clearly growing inclination for women to enter into gainful employment.

(14) Despite the fact that the number of working women is growing more rapidly than that of men, the unemployment ratio of women has for many years been higher than that of men. In 1986, it was 10.5%, as compared to 8.0%

for men. There are various reasons for this situation. In addition to the general lack of jobs, the main causes are the continuing concentration of women on a relatively narrow spectrum of "typical" women's occupations, the above average number of semi-skilled and unskilled women, the insufficient number of part-time employment posts, as well as prejudices and reservations in relation to working women, particularly working wives.

(15) The higher unemployment level among women can no longer be attributed solely to poorer qualifications. Both the educational and occupational qualifications of women have increased considerably in the last 20 years. The improved qualifications were accompanied by an improvement in the occupational status. There are fewer younger women than older in unskilled employment.

(16) Of the women aged between 25 and 35 years in 1985, 58.0% had completed an apprenticeship or training period (for comparison: 26.2% of all women over 65 years of age). The number of female trainees in the dual system (i.e. training company and vocational school) rose from 35.4% in 1975 to 41% in 1986.

(17) Since 1980, there has been a tendency of female trainees not to concentrate on just a few occupations. In 1985, 67.9% of the women were training in the 15 most frequently chosen occupations, this being 3.8% less than in 1980 (for comparison: 48.2% of male trainees, or -2.6%).

(18) A major contribution towards this development was made by a wide-ranging model programme of the Federal Government for training young women in industrial and technical occupations, as well as corresponding promotion programmes in most of the Federal Laender. In 1977, one

year before the start of the Federal programme, only 2.6% of all female trainees were learning a so-called "man's occupation" (less than 20% women); by 1986, this figure had already risen to 8.2%.

(19) The positive experience gained with the model programme is being intensified by means of target-oriented public relations work and various regional measures for wider implementation of the results. There has since been a pronounced increase in the number of women applying for training posts in "man's occupations". Similarly, the companies have become more willing to train young women in what were previously atypical occupations.

(20) Unfortunately, it has been found that the young women trained in "man's occupations" sometimes have difficulties in crossing the so-called second threshold, that is to say the transition from training to full employment. Consequently, the Federal Government is using every possibility open to it in its attempts to eliminate the difficulties encountered by young women with industrial and technical training when trying to find gainful employment.

(21) A complete re-orientation of the vocational goals of girls and young women is not to be expected, nor would it be desirable. Therefore, the Federal Government considers it necessary to adapt the occupations so far preferred by women, e.g. in the service industries, to the changed requirements of the labour market by incorporating new material, particularly concerning information and communication technology, into the training courses. The action programme "New Technologies in Occupational Training" launched by the Federal Government is just one of the measures aimed at achieving this objective.

(22) The model programmes carried out within the framework of this action programme, concentrating on office systems, control systems and computer-aided design and manufacturing (CAD/CAM), largely affect occupations traditionally practised by women.

(23) Measures relating to advanced occupational training and re-training are of special importance in countering qualitative discrepancies on the labour market and for more easily coping with structural changes.

(24) The provisions of the Act for the Promotion of Employment relating to the promotion of advanced occupational training, re-training and vocational adjustment also apply unconditionally to women. Unemployed women, women at risk of becoming unemployed and unskilled women are also granted the higher benefits, regardless of their marital status, if they take part in occupational training measures, provided that they fulfil the other prerequisites demanded by the law.

(25) According to the statistics of the Federal Labour Office on the participants in occupational training measures, the share of women has increased steadily in recent years. While they only made up 31.9% of the total in 1982, 35% of the new participants in occupational training measures in 1986 were women. This upward trend is continuing.

(26) In view of the special difficulties which women, in particular, face after a period of caring for their children, the Federal Government has considerably improved the regulations relating to promotion in the interests of facilitating the re-integration of women into working life.

(27) In addition, special programmes are planned for women returning to gainful employment. They are to be implemented in close coordination with the Federal Labour Office, the companies and the providers of advanced occupational training.

(28) The Federal Government is of the opinion that further programmes and campaigns to improve the educational and training level of women are necessary, but that these measures alone are not enough to bring about a lasting improvement in women's opportunities in working life. Despite the enormous increase in the level of qualifications, it can be seen that women still mainly carry out lower-ranking and less well paid activities. Even if they have the same qualifications as men, they have less chance of promotion and are only very rarely to be found in managerial positions.

(29) This is why the Federal Government is supporting affirmative action measures for women with the aim of achieving a gradual rise in the proportion of women in those areas and levels where they have so far been underrepresented. It commissioned a scientific study, in the framework of which specific measures for the promotion of women were developed and tested in cooperation with some 30 well-known large companies. These promotion measures relate to the selection and employment of female staff, their basic and advanced training, opportunities for promotion and possibilites for maintaining contact with their occupation during the period when they are bringing up children. On the basis of this study, a "Guideline for the Promotion of Women in Companies" was developed, which gives practical information for companies wishing to implement such measures on a voluntary basis. The Guideline was printed in large numbers and is still meeting with great interest.

(30) In addition, the Federal Government is attempting to improve the situation of women in the labour market by discussing relevant topics with the collective bargaining parties.

(31) Within the framework of regional economic promotion, industrial production companies can receive grants towards investment costs for establishing and expanding plants. This promotion, which is usually limited to centres in structurally weak areas, can, under certain conditions, also be granted in other regions if, for example, the investment will mainly create permanent jobs for women.

(32) For the civil service sector, the Federal Government put the "Guideline for the Professional Advancement of Women" into force on 1 March 1986. It contains concrete rulings for improving employment and promotion opportunities for women and for increasing their proportion in advanced training measures, as well as rulings making it easier to reconcile family and working life. This Guideline is binding for the personnel administration departments and is intended to lead to a continual increase in the proportion of women in those professions and hierarchical levels where they have so far been under-represented. A first survey carried out as part of the answer to a parliamentary enquiry showed that the Guideline is already having positive effects. The proportion of women taken on is increasingly corresponding to their share of the applications received. This means that the proportion of women is also growing, particularly at the higher levels of the civil service. The proportion of women holding posts as heads of divisions has also increased. However, it is still too early to give a detailed assessment of the effects of the Guideline.

(33) Changes in working conditions play an important role in the target-oriented professional advancement of women. It is the aim of the Federal Government to change working conditions in such a way as to make it easier for both men and women to reconcile profession and family.

(34) The Employment Promotion Act of 1985 upgraded part-time work (particularly by requiring that it be put on an equal footing with full-time employment). Certain forms of part-time work (work on call, job-sharing) have been made more socially compatible.

(35) In a broadly-based information campaign on part-time employment, the Federal Government not only gave information on the various forms of part-time work, but also appealed to the companies not to offer part-time work to women only, and not to limit it to jobs requiring little qualification. The objective is to counteract the consolidation of a traditional distribution of roles in family and working life. There are also plans for a part-time work campaign in the civil service, the objective of which will again be to offer part-time employment to men and women in qualified jobs and to evaluate such a system.

3. Situation of women in agriculture

(36) The agricultural sector in the Federal Republic of Germany is characterized by family farms. Women play a major role in ensuring the survival of these family-run farms. Just under 650,000 women, or 53% of the female members of farming families, work not only in the household, but also on the farm. Women perform almost 32% of the work to be handled. Almost all farms would be incapable of surviving without the help of the women.

(37) The radical structural change in the agricultural sector led to the number of agricultural workers falling from roughly 2.8 million to only 1.9 million in the relatively short period between 1970 and 1986.

(38) Between 1980 and 1985, the proportion of smallholdings in the total number of agricultural enterprises rose from 39% to 41%. In more than half of all agricultural operations, the income from farming is already supplemented by income from other sources of gainful employment. In 1985, roughly 450,000 female members of farming families were working on the farm and in the home in those families which earn less than 50% of their income from farming. Of this total, 141,000 women were additionally in full or part-time employment off the farm.

(39) Women are the owners of over 60,000 family-run farms (of a total of roughly 740,000 operations). The work load of the self-employed women increased more than that of their male counterparts between 1970 and 1985.

(40) Given the background conditions prevailing in the Federal Republic of Germany, farming women participate in rural developments on a basis of equality with men. The rights specified in Article 14, Paras. 2 a to h, are guaranteed.

(41) The Federal Government promotes the social structures which are still prevalent in the country, in particular: mutual assistance among neighbours, care for older relatives and the preservation of nature, as well as the partnership of man and wife in running the farm and in their social security as well as the provision of housing suitable for families.

(42) It has launched a model programme aimed at promoting mutual assistance between neighbours, which is also being implemented in rural areas. It is also supporting a project entitled "Self-help for Parents in Rural Areas". Women have a major involvement in these projects.

(43) The focal points of women's affairs policy also include better opportunities for women in rural areas. In particular, the programmes are to be developed to improve the re-integration of women into the labour market, and they are to give special consideration to rural areas. A study is being carried out to investigate the living and employment conditions of women in the country. Above all, data are to be acquired on the material situation of rural women, their opportunities in relation to schooling and vocational education, their participation in advanced training, their family situation and their social security situation.

4. Institutions and authorities for enforcing equal rights

(44) In June 1986, The Federal Government extended the Federal Ministry for Youth, Family Affairs and Health to form the Federal Ministry for Youth, Family Affairs, Women and Health. Thus, a Ministry for Women was established for the first time in German history. The newly created Department for Women's Affairs has the task of creating the background conditions required for achieving equality between men and women. The former "Directorate on Women's Affairs" with three divisions and 15 employees was extended into a Department with eight divisions and a staff of 33 women and men.

(45) In July 1987, the Ministry for Women was given new responsibilities and competences. The responsibilities for the protection of working mothers, for general measures aimed at achieving equality of the sexes - including the advancement of women in the Federal administration - and, in addition, the assignment of joint responsibility for a number of important projects relating to women's affairs, clearly reflect the importance attached to the policy for women by the Federal Government. The Ministry for Women was also granted additional rights in the rules of procedure of the Federal Government, and greater consideration is now also given to the needs of policies for women in the joint rules of procedure of the Federal Ministries.

(46) The other Ministries also have specially appointed persons or divisions to deal with women's affairs. In addition, an increasing number of administrative authorities is setting up similar offices.

(47) All Federal Laender have in the meantime appointed commissioners for women's affairs or central women's affairs offices. They act as central coordination points

for matters affecting women. Numerous equal rights offices with comparable tasks have been set up at municipal level.

(48) The activities of the equal rights offices are characterized by four spheres of work:

1. Participation in statutory regulations,
2. Initiation and implementation of measures aimed at improving the situation of women,
3. Gathering suggestions and complaints from the public,
4. Promoting the change of attitude in favour of the equal rights of women and men.

(49) When it comes to eliminating disadvantages for women, the equal rights offices try not only to find general solutions, but also to provide individual assistance in specific cases. Target-oriented public relations work - brochures, meetings, presentations, press reports - is intended to put women in a better position to assert their rights themselves Cooperation with women's associations and groups is of major importance in this context.

(50) Some companies have appointed "equal opportunities" or "women's affairs" commissioners to deal with matters relating to equal rights for men and women.

5. Means of enforcing equal rights

(51) The statutory regulations for eliminating discrimination include, for example, the crediting of parental leave periods in the statutory pensions insurance system and the granting of parental allowance and parental leave for mothers or fathers.

(52) As a result of its newly assigned responsibilities and competences, the Federal Ministry for Women has various possibilities for turning the equal rights of women and men into social reality:

1. In areas where the Ministry for Women is competent, it can develop and design new measures for implementing the equality of the sexes.

2. Due to its increased rights of participation, it can introduce aspects relating to women's affairs in important projects in many sectors.

3. The Federal Minister for Women - also a woman - has the right to propose measures and, following agreement with the Federal Chancellor, a right of deferment in matters of importance for women's affairs. She has the right to speak during the reading of a bill relating to matters of particular importance for women's affairs before the Bundestag and the Bundesrat, including their committees, in agreement with the responsible Federal Minister.

4. The reasons submitted with cabinet proposals and bills must state what effects are to be expected in relation to women's affairs.

(53) At the Laender and municipal levels, the local equal rights offices also have rights of participation in matters relating to women's affairs - although in varying forms.

(54) The political parties have taken decisions expressing their will to increase the proportion of women in leading positions in the foreseeable future in such a way that it corresponds at least to their proportion of the total membership of the party.

Part II: The provisions of the Convention and their implementation in the Federal Republic of Germany

1. Legislative measures to eliminate discrimination against women (Article 2)

1.1 Equality before the law and ban on discrimination (letters a and b)

(55) Due to the existence of Article 3, Paras. 2 and 3, of the Basic Law, the legislation of the Federal Republic of Germany already complies with the obligations arising from Article 2 of the Convention.

1.2 Protection of women by the courts (letter c)

(56) Like the parliaments and the executive, the courts in the Federal Republic of Germany are bound by the directly enforceable basic rights, including Article 3, Paras. 2 and 3, of the Basic Law. According to Article 20, Para. 3, of the Basic Law, the judiciary is bound by "law and justice". This binding is one of the foundations of a constitutional state. Recourse to the courts is guaranteed by Article 19, Para. 4, of the Basic Law.

(57) The "constitutional complaint" is a particularly important instrument for the protection of basic rights, including the basic rights of women arising from Article 3, Paras. 2 and 3, of the Basic Law. If all normal legal remedies fail, anyone can lodge such a complaint by maintaining that one of their constitutionally guaranteed basic rights, as set forth in Article 3, Paras. 2 and 3, or any other provision of the Basic Law has been violated by an act of state.

(58) Independently thereof, all judges must, by virtue of their office, examine whether the statutory regulations to be applied by them are compatible with the basic rights guaranteed in the Basic Law. If the court considers a statutory regulation which is vital for the decision to be taken by it to be unconstitutional, it must suspend the proceedings and ask for a decision from the Federal Constitutional Court.

(59) However, those involved in making the laws must, of course, also always examine whether a proposed law is constitutional and capable of withstanding the scrutiny of the Federal Constitutional Court, although it sometimes happens that opinions are divided on this question. In the event of such differences of opinion or doubts as to the compatibility of statutory regulations with, for example, the basic right of equal opportunities for men and women, a decision is again reached by the Federal Constitutional Court, provided that the Federal Government, or the Government of a Federal Land, or one third of the members of the Bundestag submit a corresponding application.

(60) Thus, like the protection of all other basic rights, the enforcement of the basic right to equality and to protection against discrimination for reasons of sex is designed to be highly effective in the Federal Republic of Germany.

1.3 Protection against discrimination (letter d)

(61) From the constitutional situation described and in combination with the system of legal protection, including the instrument of the constitutional complaint, it can be seen that, in accordance with Article 2, letter d, of the Convention, actions and practices which discriminate against women are forbidden and that "all state authorities and public institutions" must act in compliance with this obligation since they, in particular, are directly bound by the basic rights specified in the Basic Law, as provided for in Article 1, Para. 3, of the Basic Law.

1.4 Protection against discrimination by private persons (letter e)

(62) The provisions of the Basic Law relating to basic rights in principle only cover the relationship between the citizen and the state. In contrast, the principle of equal rights and the ban on discrimination do not apply directly to the relationship between citizens.

(63) However, being objective values, the basic rights are also of importance in private law. Consequently, they must be taken into consideration when interpreting and applying the provisions of civil law.

(64) The indirect effect of the basic rights of Article 3, Paras. 2 and 3, of the Basic Law is of special importance in labour law. Here, the judgements of the labour courts, taking into account the basic rights guaranteed in the Basic Law, developed a principle of equality of the sexes in labour law at an early stage.

(65) In addition, it was later expressly stated in the law that an employer may not prejudice a male or female employee on account of their sex when signing a contract of employment, in their professional advancement, when issuing instructions or giving notice of termination. If an employment relationship has not been established due to an infringement of the prohibition of discrimination, the employer shall be liable for compensation (Art. 611a of the Code of Civil Law). In addition, an employer should not advertise a job either publicly or within the company as only for men (or only for women) (Art. 611b of the Code of Civil Law).

1.5 Abolition of discriminating legislation and customs (letter f)

(66) Following expiry of the transition periods allowed for the adaptation of contradicting laws under Article 3, Para. 2, of the Basic Law, the pre-constitutional law which contradicted the equality of the sexes was repealed on 1 April 1953. According to Article 1, Para. 3, of the Basic Law, legislature, executive and judiciary are bound by it as directly enforceable law. Any violation of the basic right of equality can be brought before national courts. In such cases, the Federal Constitutional Court may declare a law to be incompatible with the Basic Law or nullify the law in question. Such decisions of the Federal Constitutional Court have the force of law.

(67) It is considerably more difficult to alter discriminating customs and social practices which are not open to the direct intervention of the legislature in a free social order. After all, the problem here is to trigger a process of re-thinking and to overcome old prejudices and stereotype notions of roles in life. However, the laws and other national norms aimed at achieving equality of the sexes create or favour a social climate in which personal behaviour and customs characterized by discrimination against women may change. In this sense, the Federal Government also regards the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the submission of the report as a "suitable measure" for changing customs and practices which constitute discrimination against women.

1.6 Repeal of penal provisions discriminating against women (letter g)

(68) Penal provisions constituting discrimination against women do not exist in the law of the Federal Republic of Germany . However, its legal order does not accept the extreme viewpoint occasionally represented that the statutory offence of induced abortion constitutes a discriminatory or repressive measure against women. As stated by the Federal Constitutional Court, the constitutionally based obligation of the state to protect unborn life may under certain circumstances necessitate the use of penal measures to safeguard this life.

(69) With its comprehensive and differentiated penal provisions in relation to induced abortion, the legislature of the Federal Republic of Germany takes into account both its obligation to protect unborn life and the aspect expressly recognized by the Federal Constitutional Court that, in cases of real conflict situations, where the decision to terminate the pregnancy may have the status of an honourable decision of conscience, the state may not apply the instruments of penal law to enforce continuation of the pregnancy.

(70) Therefore, an abortion induced by a doctor with the consent of the pregnant woman is not punishable on legally defined grounds. This is the case, on the one hand, if an abortion is necessary in order to avert the risk of the pregnant woman either losing her life or being severely impaired in her physical or mental condition, and if the risk cannot be averted in any other way acceptable to her. On the other hand, medical necessity is irrefutably assumed if cogent reasons favour the assumption that the child would suffer from irreparable damage due to a genetic disposition or harmful influence prior to birth and if this damage would be so severe that the pregnant woman cannot be expected to continue the pregnancy. This is also the case if there are cogent reasons for assuming that the child is the result of a sex crime. In practice, social necessity arising from the risk of distress is particularly important. In such cases, abortion must be called for to protect the pregnant woman from risk of distress so severe that continuation of the pregnancy cannot be by rights expected, provided there is no possibility of averting the risk in any other way acceptable to the pregnant woman.

2. Measures to advance and safeguard the full development of women (Article 3)

(71) The objective of the policy for women of the Federal Government is to turn the legally guaranteed equal rights of women and men into a social reality. In this context, the policy of the Federal Government is based on the situation of all women in life, older and younger women, gainfully employed and non-working women, women farmers and helping relatives, unmarried, married and widowed women.

(72) This concept illustrates the complexity of the policy for women today. After all, the enforcement of equal rights for women also necessitates a change in the role of the man in his private, family and social life, a material upgrading of work in and for the family, greater flexibility in the working world, a reform of the internal structure of public institutions and a changed view of socio-political processes.

(73) Thus, policy for women becomes the central aspect of a social policy whose task it is to recognize achievements, eliminate political and social wrongs and create the preconditions for human beings to be able to exercise their rights and obligations as women and men.

(74) The obligation of Article 3 of the Convention is also taken into account at Laender level by way of effective policies for women.

3. Special measures of the States Parties (Article 4)

(75) The Maternity Protection Act and the specific industrial safety regulations for women are special regulations as defined by Article 4, Para. 2, of the Convention.

4. Elimination of sterotyped roles and promotion of the common responsibility of men and women in the upbringing and development of their children (Article 5)

(76) Public relations work and information campaigns are being carried out in an attempt to achieve a change in the awareness of the general public in order to enforce the equality of the sexes in practice. For example, an exhibition entitled "Girls in Picture Books" was compiled, which shows examples of sex-specific and neutral representations in picture books of the last 100 years. This travelling exhibition has met with a great response and is booked out until 1991. As regards the representation of women and men in school books, it is often the case that the educational content of school books has so far only been modified inadequately, even though various studies unanimously agree that the texts in school books still bear the stamp of the traditional picture of the woman's role and that women are represented far less frequently than men.
Various Federal Laender have therefore drawn up recommendations for school-book reviewers containing assessment criteria for the representation of women and men on an equal standing - without one-sided assignment of roles.

(77) The women's and family policy of the Federal Government is aimed at partnership between men and women. Women and men should be able freely to agree on tasks and their distribution. The Federal Child-Raising Allowances Act, which came into force on 1 January 1986, contributes towards promoting the division of labour in the family partnership. Under this Act, mothers or, optionally,

fathers, who take child-raising leave receive a child-raising allowance of DM 600.00 per month - in 1986 and 1987 for the first ten months after the birth of a child, and for the full first year from 1988 onwards. The child-raising allowance, which is also paid to non-working mothers and fathers, is granted irrespective of income for the first six months of life of the child, after which time income limits apply. Protection against dismissal is afforded during child-raising leave. At the end of the child-raising leave, the claimant has a right to the former job, or a similar one.

5. Suppression of traffic in women and the exploitation of prostitution of women (Article 6)

(78) Traffic in women and the exploitation of prostitution of women are combatted in the Federal Republic of Germany in particular by the statutory offences of Articles 180 (Promotion of Sexual Acts of Minors), 180a (Promotion of Prostitution), 181 (Traffic in Human Beings) and 181a (Trading in Prostitution) of the Penal Code. Additional reference should be made to the provision of Article 237 of the Penal Code (Kidnapping against the Will of the Person Kidnapped), which can also be applied in connection with the exploitation of prostitution.

(79) The aforementioned penal regulations are primarily intended to protect the prostitute against those threats to her person or her personal freedom that are associated with prostitution. Those actions are punishable by which women are led to prostitution or which constitute a severe impairment of their personal self-determination and financial independence. Furthermore anyone is liable to prosecution who, for example, grants accommodation or business premises or a business abode to a person under the age of 18 for the purposes of prostitution, or who occasions or forces persons under the age of 21 to engage in, or continue to engage in prostitution.

(80) Prostitution as such is only threatened by sanctions if it is carried out in contravention of a ban issued in a statutory instrument with regard to certain places or certain times of the day. A single infringement is regarded as an administrative offence under Article 120, No. 1, of the Administrative Offences Act. Repeated infringement is considered to be a criminal offence (Article 184 a of the Penal Code), as is prostitution exercised in a manner morally harmful for adolescents (Article 184 b of the Penal Code).

(81) Offers of prostitution offensive to the public and soliciting are forbidden under threat of the penalties specified in Articles 119, Para. 1, and 120, No. 2, of the Administrative Offences Act. For fulfilling the statutory definition of the offence of soliciting, it is irrelevant whether prostitution in the Federal Republic of Germany or elsewhere is involved.

(82) Article 181 of the Penal Code (Traffic in human beings) relates to those matters in which the Federal Republic of Germany has accepted an obligation to punish by signing

- the International Convention for Guaranteeing Effective Protection against Traffic in Young Women, dated 18 May 1904, in the version of the protocol dated 4 May 1949;

- the International Convention on the Elimination of Traffic in Young Women, dated 4 May 1910, in the version of the protocol dated 4 May 1949;

- the Convention on the Suppression of Traffic in Women and Children, dated 30 September 1921, in the version of the protocol dated 12 November 1947.

(83) In contrast, the Federal Republic of Germany did not sign the Convention on the Suppression of Traffic in Human Beings and the Exploitation of the Prostitution of Others, dated 2 December 1949, since, in its experience, the more extensive punishment of prostitution provided for in that Convention would not be a suitable means of achieving the desired goal. The general penalization of the letting and hiring of rooms for the purpose of prostitution is not considered desirable by the Federal Government, because this would only drive prostitution into the underworld beyond the control of the police, and the women and adolescents affected would become dependent on procurers.

(84) The legal instruments mentioned have on the whole proven successful in combatting traffic in women and the exploitation of prostitution of women. However, new challenges demand new responses of the competent police and regulatory authorities.

(85) In the Federal Republic of Germany, the problem of prostitution tourism which has developed in recent years has mainly been countered by specific information. Within the framework of educational work on development policy, the Federal Minister for Economic Cooperation has implemented special information campaigns to sensitize the public as regards the problems of prostitution in developing nations. The cooperative development work of the Federal Government also helps to combat the poverty-induced causes of prostitution by way of measures creating income for poor sectors of the population.

(86) The Federal Ministry for Youth, Family Affairs, Women and Health has urged travel organizers and their associations not to support such enterprises. In early 1988, it also started a research project on the subjects of prostitution tourism and procurement of marriages for foreign girls and women by agencies in the Federal Republic of Germany. In addition, by way of a pilot project, the Federal Ministry for Youth, Family Affairs, Women and Health plans to support a contact office and advisory service for foreign involuntary prostitutes and women for whom marriages have been procured. The project is due to start in 1988. The competent authorities in the Federal Republic of Germany counter the illegal entry of prostitutes from abroad by applying the existing instruments of criminal, administrative and, in particular, aliens law.

6. Elimination of discrimination in political and public life (Article 7)

(87) In the Federal Republic of Germany, fulfilment of the obligations arising from Article 7 of the Convention is legally guaranteed by Article 3, Paras. 2 and 3, Article 9, Article 33 and Article 38 of the Basic Law, in conjunction with the Federal Electoral Act and the Electoral Acts of the Laender, the Political Parties Act, the General Public Service Act and the Civil Service Acts of the Federation and of the Laender, the Judiciary Act, etc.

(88) Like men, women have the right to vote in all elections, as well as the right to be elected. According to Article 33, Para. 2, of the Basic Law, any German is equally eligible for any public office according to their aptitude, qualifications and professional achievements. Thus, women have the same access to public offices as men.

(89) However, in view of the possibly wide-ranging interpretation of the terms "public office" and "fulfilment of public tasks", the following reservation had to be declared when ratifying the convention: "Article 7, letter (b) will not be applied insofar as it contradicts Article 12 a, Para. 4, second sentence, of the Basic Law of the Federal Republic of Germany. According to this constitutional provision, women may on no account render service involving the use of arms."

(90) The basic right of freedom of association in Article 9, Para. 3, of our constitution (the Basic Law) guarantees everyone the right to form associations (trade unions and employer associations) to safeguard and improve working and economic conditions and to join such associations. The basic right of freedom of association also guarantees the aforementioned associations the right to settle matters of internal organization freely, under their own responsibility, in accordance with democratic principles. Thus, an influence of the Federal Government on the structure and composition of the bodies of these associations is precluded by law.

7. Participation of women at the international level (Article 8)

(91) Like men, women have the opportunity of representing the Government at international level and of participating in the work of international organizations. The appointment of six women as Ministers or Parliamentary State Secretaries in the Federal Government after the last elections to the Bundestag is an expression of a policy which gives women equal involvement in all important socio-political decisions - also at international level. This is also confirmed by the responsibilities of

these women politicans, e.g. in the Federal Chancellery, Federal Foreign Office, Federal Ministry of Defence, Federal Ministry for Intra-German Relations, Federal Ministry of Education, and Federal Ministry for Youth, Family Affairs, Women and Health.

(92) Women's associations, such as the German Council of Women, which has observer status with ECOSOC, or the women's organizations of the political parties, are also involved in the growing international cooperation. As long ago as 1955, women members of the Christian-Democratic Union (CDU) have been active at the Western-European level in the European Women's Union (EFU), an association of the women members of the Christian-democratic and conservative parties. Since 1974, they have also been involved in the newly formed worldwide Union of Christian-Democratic Women (UCDF). The Association of Social-Democratic Women (ASF) is also active at the international level in the International Council of Social-Democratic Women. Female members of the Free Democratic Party (FDP), who do not have an organization of their own, are attempting to achieve greater international cooperation via their party.

(93) An increasing number of women have been appointed or promoted to leading positions in the Federal Foreign Office, whose primary objective is to achieve good and fruitful international relations. The growing involvement of women results, for example, from the appointment of women as the heads of ten diplomatic missions abroad. In recent years, more than 20% of the vacancies in the higher career echelons were also filled with women. In the intermediate career echelons, the proportion of women has increased from under 20% before 1980 to over 50% since 1981.

8. Nationality of women and children (Article 9)

(94) According to Article 9, Para. 1, of the Convention, men and women must be treated equally as regards the acquisition, loss (change) or retention of nationality. Neither marriage to an alien nor the change of nationality by the husband may deprive the wife of her own nationality or force upon her the nationality of the husband. The Federal Republic of Germany already accepted corresponding obligations under international law by signing the Convention of the United Nations on the Nationality of Married Women, dated 20 February 1957.

(95) According to Article 9, Para. 2 of the Convention, women must be granted equal rights with men as regards the nationality of their children. In the case of legitimate children acquiring nationality by birth, national law makes no distinction between children born of a German father or a German mother (Article 4, Para. 1, No. 1, of the Nationality Act). For illegitimate children, however, the statutory acquisition of German nationality by birth is limited to children born of a German mother (Article 4, Para. 1, No. 2, of the Nationality Act). Illegitimate children of German fathers have a claim to citizenship once paternity has been established and if the child is to remain in the country. The applicable ruling of national law does not violate the ban on discrimination contained in the Convention.

9. Equality of men and women in the field of education (Article 10)

(96) Men and women have equal opportunities as regards access to education and acquisition of certificates at all types of educational institutions and vocational counselling. Today, girls have the same standard of general education as boys. Parents nowadays also consider qualified education and training to be just as necessary for their daughters as for their sons. The frequently

better and more qualified school-leaving grades of girls show that good education and training has become a matter of course for girls. In order also to help women with low professional qualifications, the Federal Government has implemented several qualification measures in recent years. In addition, it has made re-integration of women into their professions a central aspect of its policy for women.

9.1 Return to working life

(97) One central aspect of the policy for women is the improvement of the education and training offered to help women to return to working life.

The following are implemented:

- Advanced training measures during the family phase;
- Information courses and orientation aids for housewives who have worked in the home for a long time;
- Adaptation courses to enable women to keep up with progress in their original occupation;
- Advanced training courses not related to the profession originally exercised, such courses being based on the knowledge and skills acquired during the family phase, turning them to good use in a new paid job or honorary activity.

9.2 Professional qualification measures

(98) New, demanding spheres of activity have been opened up in the area of modern information and communications technologies with the aim of qualifying women for professional advancement and taking effective steps towards reducing the level of female unemployment. Correspondence courses combined with practical job training enable female participants to take up qualified promising jobs as software, communications and CIM assistants.

(99) With a view to eliminating stereotyped concepts of the roles of men and women in working life and to improving the opportunities for women in the labour market, nation-wide pilot projects aimed at opening up industrial and technical occupations to women were undertaken between 1978 and 1985 at the initiative of the Federal Government.

(100) Among other things, the pilot projects produced some favourable experiences for the companies as regards the aptitude of women for industrial and technical occupations, and no notable differences between the examination results of male and female candidates were found. Although the current situation in the labour market has made it harder for young women to find employment after completing their training, the majority of the participants in the pilot projects succeeded in finding professional employment. Thus, 64.7% of the young women found jobs in the trades they had learned, although only with limited-term employment contracts in some cases.

(101) In addition, between 1976 and 1983, unemployed women with no appropriate qualifications were successfully integrated into the working world with the aid of retraining measures for 24 occupations.

(102) Measures aimed at allowing women without school or professional qualifications to catch up on vocational training are currently being developed and tested. A sum of DM 1.2 million was made available in 1986 for implementing and propagating the results of vocational training projects for women.

(103) A study commissioned by the Federal Government in summer 1985 to determine the reasons for premature termination of apprenticeship contracts revealed no significant differences between men and women as regards the

termination ratio (11% for women, 10% for men). In contrast, women appear far less inclined prematurely to terminate their apprenticeships suddenly or at short notice (43% of the women, 52% of the men).

9.3 Women at university

(104) The proportion of female students at universities in the Federal Republic of Germany was 37.9% in 1986. In the past, the applications from female students at scientific and technical universities for grants under the Federal Student Aid Act developed almost in parallel with the participation of women in university education.

(105) Insofar as the proportion of women is lower among the scholarship holders in scholarship programmes subject to certain qualification requirements - e.g. the corresponding programmes of the institutions for the advancement of gifted persons, of the Laender and the German Research Society - this is partly due to the response of the female applicants, who concentrate on some few disciplines.

(106) However, women are considerably under-represented among the university staff. Thus, the proportion of women in the full-time academic staff of the technological universities in 1985 was 5.1% of the professors (only 2.4% of the professors in salary grade C 4) and 24% of the junior scientists with doctorates. Appointment practice in the middle academic levels has altered in favour of women in recent years. In 1985, the proportion of newly appointed female junior scientists with doctorates and academic assistants exceeded their proportion in the corresponding professional groups. The professional prospects of female scientists in university research and teaching must be further improved in future. The following concrete steps have been taken in this context:

- (107) Term Contracts Act

  The 1985 Term Contracts Act contains a special provision to protect female academic assistants with term contracts against the loss of claims to employment in the event of bringing up a child or caring for relatives. The same protection is afforded female academic assistants with term contracts in case of pregnancy during a period of leave of absence or a ban on employment in accordance with the Maternity Protection Act.

- (108) Article 2, Para. 2, of the General University Act (HRG)

  According to a new provision (Article 2, Para. 2) added to the General University Act in 1985, the universities must, in the fulfilment of their duties, attempt to eliminate the existing disadvantages for female academic staff. This provision does not simply have the nature of an appeal, but obliges the universities to attempt to eliminate existing disadvantages in the fulfillment of their tasks. The measures open to consideration in each individual case are decided upon by the Laender and the individual universities.

- (109) Improvement of the staff structure in the university sector

  The special needs of female academic staff members are furthermore to be taken into account by improving the staff structure in accordance with the amended General University Act. For example, the provisions of the Term Contracts Act, whereby term contracts of female academic assistants are prolonged in the event of maternity, bringing up a child or caring for relatives, have been extended to cover professors, university lecturers, senior assistants and academic assistants with limited-term employment contracts.

The same applies to professors, university lecturers, senior assistants, academic assistants and academic employees who are temporary civil servants, unless operational reasons forbid (Article 50, Paras. 3 and 4, General University Act).

- (110) Research project "Situation of women as junior researchers and university lecturers"
  With a particular view to the new ruling in Article 2, Para. 2, of the General University Act, the Federal Government intends to commission a study of the employment prospects and conditions of women as full-time academic staff in universities. The questions will relate both to junior researchers and appointments as professors.

9.4 Women in sports

(111) In the promotion of the German Youth Sports Association and its member associations, as well as in the athletic education of young people and at the Federal Youth Games, no distinction is made between male and female participants.

10. Equality of men and women in working life (Article 11)

10.1 Right to work and application of identical selection criteria for employment (letters a and b)

(112) In the field of employment contract law, the requirement for equal treatment of men and women is specified in Articles 611a ff. of the Civil Code. The main points of these provisions are as follows:

- (113) The employer is forbidden to discriminate against employees because of their sex. This provision covers all aspects of the employment relationship, from engagement and implementation of the employment contract to termination.

- (114) A lower wage may not be paid on the basis of sex for identical or equivalent work. Protective regulations existing because of the sex of the employee (e.g. Maternity Protection Act) do not justify agreement on a lower remuneration.

- (115) If the employer violates the ban on discrimination, the employee can demand elimination of the discrimination or claim damages. If employment or promotion to which no entitlement existed is refused, only damages can be claimed. Since it is based on an EC Directive, two decisions of the European Court dated 10 April 1984 (cases 79/83 and 14/83) are of major importance for the interpretation of this provision. According to the case law of the European Court, damages must be such as to guarantee their effectiveness and deterrent effect. Following the decisions of the European Court and acting along this line, labour courts in the Federal Republic of Germany have awarded damages amounting to five or six months' wages to women who had applied for posts and were rejected because of their sex.

- (116) The Act provides for the following in relation to the burden of proof in the event of a case before a labour court: if an employee can bring forth credible grounds indicating discrimination because of sex, the employer bears the burden of proving that the different treatment was justified not by sex-specific reasons, but by objective reasons.

- (117) Any victimization such as termination of a contract or other discrimation against employees for asserting their rights is prohibited.

- (118) The employer is not to advertise vacancies exclusively for men or exclusively for women, either in public or within the company.

- (119) The employer is to post the regulations on equal rights in the company premises, or have them available for inspection.

(120) With these regulations, the Federal Republic of Germany fulfils the obligations arising from the Convention as regards the equality of men and women in employment contract law. The Federal Government is at present considering an amendment of the Act to harmonize labour legislation in the EC.

(121) According to Article 75 of the Employees Representation Act, employer and works council must ensure that all persons working in the company are treated in a just and equitable manner and particularly that no persons are treated differently in any way because of their sex.

(122) The principle of equality of opportunities laid down in Article 33, Para. 2, of the Basic Law is specified in detail in Article 7 of the General Public Service Act, Article 8, Para. 1, of the Federal Civil Service Act, as well as in the corresponding Civil Service Acts of the Laender. They state that the selection of applicants for civil service must be based on aptitude, qualifications and professional achievements.

(123) The Federal Government is making a determined effort to improve the situation of women in the civil service and to employ more women. The Guideline for the Professional Advancement of Women in the Federal Administration, issued in February 1986, is also aimed at this objective. It states that women must be given due consideration, taking into account the principle of achievement, when employing persons for the civil service. At the Laender level, initiatives have also been started to give women due consideration when employing persons for the civil service.

(124) The proportion of the total number of employees in the civil service accounted for by women has risen constantly. According to the figures of the Federal Statistics Office, 1.9 million women were employed in the public sector in mid-1986, 65,000 (3.7%) more than three years previously and, at the same time, the highest number ever recorded. The share of the total staff accounted for by women has thus risen from 40.2% to 40.8%.

(125) In 1986, the Federal Ministries took on 726 male and female applicants: 402 women (55.4%) and 324 men (44.6%). Almost one third of the new staff members in the higher levels were women, and almost 50% at the intermediate level. On the whole, the proportion of women newly employed was just as high as the share of applications accounted for by them. Since the proportion of women employed at the higher levels of the civil service was only 8.5%, the ratio of new employees, at 30%, is a major step forwards.

10.2 Right of free choice of profession and right to promotion, vocational training, re-training, advanced vocational training, etc. (letter c)

(126) According to Article 12, Para. 1, of the Basic Law, all Germans have the right freely to choose their occupation or profession, their place of work and their place of training.

(127) The efforts of the Federal Government in the field of vocational policy concentrate on achieving high availability of training posts and jobs. In view of their exemplary function, the employers in the public sector bear special responsibility in this context. Consequently, the Federation has ensured that its companies, research institutions, authorities and organizations increased the number of training posts offered. In 1985, roughly 90,000 young women and men (roughly 84,000 in 1984) were being trained by the Federation. These are training posts pursuant to the Vocational Training Act, i.e. excluding service career training for the intermediate and higher levels of the civil service.

(128) Some 34% of the new trainees taken on in 1985 in accordance with the Vocational Training Act (including service career training for the lower and middle levels of the civil service) were women. The following table summarizes the number of new appointments in the period from 1982 to 1985 and the proportion of female trainees in this period.

	For training under the Vocational Training Act		For service career training at the lower and middle levels or other employee training	
	Total	Women	Total	Women
	Number	%	Number	%
1982	18,313	25.5	7,822	23.9
1983	19,616	25.8	9,116	32.0
1984	22,094	28.9	8,112	39.9
1985	21,644	27.5	9,507	49.4

(129) The Federal Government has also called on companies offering training to give more consideration to young women when deciding on appointments.

(130) Of the roughly 383 state-approved occupations in which vocational training is offered, only 20 are not open to young women because of statutory regulations (industrial safety legislation).

(131) Equal opportunities for promotion are guaranteed both in civil service legislation and in the collective agreements for the public sector. The question whether part-time employment impedes professional advancement to the managerial level remains unanswered. There is no firm evidence available on this matter. However, the Federal Government is trying to promote the opportunities of part-time employees for professional advancement.

(132) The advanced training offered by the Federal Government is open to all members of the public administration services of the Federation. The advanced training courses are available to all employees - men and women alike.

(133) An expert meeting organized by the Federal Government in Bonn in early 1986 was specifically dedicated to the advanced training (and basic training) of women. The effects of new technologies on the training and employment of women were among the subjects debated.

(134) The principles of public employment placement services, careers advice and placement in training posts, the promotion of vocational education and unemployment insurance are set forth in the Employment Promotion Act of 25 June 1969. Essentially the same regulations apply to men and women.

(135) Because women have to give up gainful employment for family reasons, disadvantages may arise for women insofar as they fail more frequently than men to fulfil the necessary conditions entitling them to receive benefits under the Employment Promotion Act.

(136) The Federal Government took this possible disadvantage into account in the Recruitment Promotion Act, which makes it easier for women to gain access to advanced vocational training and re-training measures, as well as job creation schemes, after periods of bringing up children: women who were in employment subject to social insurance contributions for at least two years before interrupting their occupation can now interrupt their professional activity for five years for each child without forfeiting the previously acquired rights to furtherance of their advanced vocational training and re-training.

(137) In addition, by the 7th amendment to the Employment Promotion Act, access to vocational education measures has been additionally facilitated for women in that they are now also entitled to claim partial maintenance if they quit gainful employment temporarily in order to bring up children and can only participate in a training scheme on a part-time basis due to continuing domestic ties. However, even women who have exceeded the maximum creditable period for bringing up children (five years per child) can receive maintenance payments while participating in vocational education if they are compelled to take up employment in order to secure their livelihood. In this case, the prerequisite is again that the woman was employed and paid social insurance contributions for at least two years before quitting gainful employment.

10.3 Right to equal remuneration (letter d)

(138) Equal remuneration for men and women is legally guaranteed by salary laws in the field of employment contracts in the public sector.

(139) The salaries of civil servants and judges are governed by law. Here, the legislature must observe the constitutional precept of equal treatment in the same way as for all other aspects of legislation covering the public service. In addition, salary legislation is based on the principle of payment according to function. All functions of civil servants are statutorily assessed according to the requirements attached to them; they are assigned a public office, which, in turn, is tied to a salary group. Public offices are tied to salary groups by an abstract process (before a post is filled). This system eliminates the possibility of payment being based on standards other than the functional significance of the office held, such as sex.

(140) The rulings on other benefits not defined in the Federal Salaries Act, such as welfare benefits and reimbursements of expenses, also apply regardless of sex.

(141) There are no indications that the collective bargaining partners systematically discriminate against women in wage agreements. Only in relation to the so-called "light wage groups" - i.e. wage groups which, for physically light work, usually carried out by women, provide for a wage lower than the next higher groups for physically heavy labour - have the Bundestag, the Federal Government and the collective bargaining parties been trying for years to find an answer to the question how any discrimination against women that may be associated with this situation can be eliminated. At the moment, the main task is to ascertain whether and to what extent the collective bargaining parties have complied with the repeated appeals of the Bundestag - most recently in 1985 - to improve the situation of women in this sector. The Federal Government submitted a report on this subject to the Bundestag in November 1986. It states that the controversial light wage groups today only exist in a few collective wage agreements.

(142) The pertinent ILO Convention No. 100 on the Equality of the Remuneration of Male and Female Employees for Equivalent Work (to which Article 4, Para. 3, of the European Social Charter, ratified by the Federal Republic of Germany, corresponds - also in relation to this provision) was ratified by the Federal Republic of Germany in 1956.

10.4 Right to social security (letter e)

(143) According to the decisive provisions of the collective wage agreements, female employees in the public service of the Federation have the same rights as their male colleagues. Female and male employees thus have the same claim to severance pay when going into retirement (Articles 62 ff. Federal Employees' Collective Salary Agreement (BAT), Articles 65 ff. Framework Collective Agreement for Civil Servants (MTB II)), continuation of wage payments during illness (Article 37 BAT / Article 42 MTB II) and paid holidays (Articles 47 ff. BAT, Articles 48 ff. MTB II). This also applies to the civil service pension (additional pension) to be paid in the event of vocational disability, total disability or upon reaching retirement age. Female employees are privileged in that they are granted earlier benefits from the additional pension scheme when they claim the earlier old-age pension provided for women only (from the age of 60, as opposed to 65 for men) under the statutory pensions insurance scheme. The Federal Constitutional Court has declared this differentiating treatment to be compatible with the Basic Law until such time as existing disadvantages for women have been eliminated.

(144) In the field of civil service pensions, the principle of equality of men and women has been fully implemented.

(145) The laws governing the holidays of male and female civil servants also contain no discrimination against women. The only holiday ruling in civil service legislation which differentiates between the sexes in the approval of applications for leave is a ruling in favour of female civil servants. This is the provision of Article 4 of the Ordinance on Special Leave, which provides for leave to be granted for training as an assistant nurse.

(146) As in all other fields of law, the right to social security is subject to the rule of equality in Article 3, Paras. 2 and 3, of the Basic Law. Unequal treatment still existing in this field (as regards the claim of the widower to a widower's pension after the death of the insured wife) was eliminated by the Act of 11 July 1985 on the Reorganization of Surviving Dependents' Pensions and the Recognition of the Periods Devoted to the Upbringing of Children. Whereas the wife had previously always received a widow's pension after the death of the insured husband, the man only received a pension after the death of the insured wife if the deceased had earned the greater part of the family income. According to the new ruling, the surviving dependent - either widow or widower - always receives the surviving dependent's pension of the deceased spouse, although the personal income of the surviving dependent is offset, taking into account a tax allowance.

(147) At the same time, it was ruled that mothers or fathers born in or after 1921 who have brought up a child within the domestic territory, or will do so in future, are to be credited for each child with one insurance year establishing and increasing a pension claim. The child-raising year is rated at 75% of the average income of all insureds. If the period devoted to the upbringing of children coincides with another creditable period, i.e. a contributory, substituted, lost or accountable period, and if this period is rated more highly than at 75% of the average income of all persons insured, the child-raising period is not credited. If the other period has a lower rating, it is upgraded to 75% by the period devoted to the ubringing of children. Step-parents, foster parents or adoptive parents may be credited with child-raising periods, rather than the natural parents, if they brought up the child during the first 12 months of life. The recognition of periods devoted to the upbringing of children made a major contribution towards improving the independent social security of those mothers or fathers who temporarily or completely gave up their gainful em-

ployment in order to bring up their children. The Surviving Dependents and Child-Raising Periods Act came into force on 1 January 1986 with effect for the insurance claims occurring since that time.

(148) The Act on Benefits of the Statutory Pensions Scheme for Child-Raising for Mothers Born before 1921 came into effect on 1 October 1987. Mothers born before 1921 are to receive child-raising benefits in several stages according to a timetable. All women who have born at least one living child will benefit. This also includes those mothers who were previously never insured under the statutory pensions scheme, such as housewives, farmers' wives, civil servants and members of a professional welfare institution. Fathers are not included. In drawing up this law, it was assumed that, in view of the family roles in those days, the fathers, as a rule, did not bear the burden of bringing up the children. In addition, if it were possible at all after tens of years, it would take a great deal of administrative effort to establish who actually brought up the child. It is for this reason that the ruling also does not apply to adoptive, foster and step-mothers.

(149) Apart from this, the principle of equal treatment for men and women in the field of social security is also laid down in Directive 79/7/EEC of the Commission of the European Communities, dated 19 December 1978. Directive 86/378/EEC, dated 24 July 1986, additionally governs the equal treatment of men and women in the organizational systems of social security. Applicable legislation of the Federal Republic of Germany complies with the requirements of both Directives.

10.5 Right to protection of health (letter f)

(150) In the view of the Federal Government, its special industrial safety regulations, giving consideration to the protection of the health of women demanded in Article 11, Para. 1, letter f, of the Convention, are not discriminatory in the sense of the Convention. In addition to the Act on the Protection of Working Mothers already mentioned, these include Articles 92 and 93 of the Mariners Act, which specify that female crew members may not be engaged in work exceeding their physical strength and that they must be granted special rest breaks and special free times.

(151) Even before the Convention came into force, the Federal Government had undertaken to examine all the other industrial safety regulations for women with a view to finding any discriminatory provisions which then would be brought into line with modern conditions. In particular, this includes:

1. The general ban on employing women in underground mining, in coking plants, in blast furnace plants and steel works, metalworks and rolling mills, press and hammer works for iron, steel and other metals where these metals cannot be processed cold (Article 16 of the Ordinance on Working Hours (AZO), No. 20 of the Implementing Ordinance to the Ordinance on Working Hours (AVAZO)).
2. The general ban on employing women in the building industry (Article 16, Para. 2, AZO, No. 20 AVAZO).
3. The ban on employing women in jobs with preparatory and closing work taking longer than a maximum of one hour in excess of the working hours permissible for the company in question (Article 17, Para. 1, AZO).
4. The daily maximum working time of 10 hours for female employees (Article 17, Para. 2, AZO).

5. Longer minimum rest breaks for female employees than for male employees (Article 18, Para. 1, AZO).
6. The ban on employing female staff after 5.00 p.m. on days preceding Sundays and public holidays (Article 19, Para. 1, AZO).
7. The Ordinance on the Employment of Women on Motor Vehicles (which prescribes medical examinations and a certain condition and equipment for the vehicle where women are employed on trucks and buses).
8. The Ordinance on Free Time, according to which women with a household of their own who are employed for at least 48 hours per week are entitled to one unpaid day per month for domestic work.
9. The Domestic Work Act of several Federal Laender, according to which women with a household of their own are entitled to a paid day for domestic work.

(152) The Federal Government has submitted a ministerial draft for an act on working hours to the Bundestag (Bundestag publication 11/360) which proposes that the aforementioned industrial safety regulations for women be repealed or restricted to the necessary extent. The individual proposals are as follows:

Re 1:

Employment in underground mining is to remain forbidden. Women are only banned from working in the furnace areas of coking plants. Similarly, women working in blast furnace plants and steelworks, as well as in metalworks, must not be employed in smelting, casting or other physically demanding jobs.

Re 2:

Women may be employed in the building industry if they have undergone an industrial medical examination by a doctor within the six weeks prior to their first employment and present the employer with a certificate issued by this doctor, stating that there are no health reasons against such employment.

Re 3 to 6:

These special rulings for women are to be repealed and replaced by rulings applying to both men and women.

Re 7:

This Ordinance is to be repealed. The only ban to remain in effect is that on employing women in work where not only occasionally loads weighing more than 10 kgs have to be lifted or carried without mechanical means.

Re 8 and 9:

These regulations are to be repealed.

(153) The Federal Government also recognized the special right of female employees to protection by ratifying Article 8, Paras. 1 and 3, of the European Social Charter.

10.6 Paid maternity leave (Para. 2, letter b)

(154) The demand for introduction of paid maternity leave without loss of previous employment is fulfilled by the Federal Child-Raising Allowances Act of 6 December 1985. It states that, following the maternity protection period after delivery, every mother may take child-raising leave up to the tenth month of life of the child. The

employer is not allowed to give notice during this period. Child-raising leave can also be taken by the father, instead of the mother. Female employees are granted paid leave during the maternity protection period on the basis of the Act on the Protection of Working Mothers.

(155) A child-raising allowance of DM 600 per month of life of the child is paid during the child-raising leave. The child-raising allowance is dependent on income from the seventh month onwards. Furthermore, the mother or father remains insured in the statutory health and unemployment insurance schemes on a non-contributory basis during the child-raising leave.

(156) Since the Federal Child-Raising Allowances Act came into force, one million mothers and fathers have received a child-raising allowance. 97% of all parents made a claim -almost 100% of the non-working mothers and approx. 94% of the gainfully employed mothers. The child-raising allowance and child-raising leave have been extended by two months for parents of children born after 1 January 1988. These benefits are available up to the first 12 months of life of the child. This further improves the compatibility of family and working life. In addition, there are plans to extend the child-raising allowance and child-raising leave into the second year.

(157) In addition to child-raising leave, there is also the possibility of leave for family reasons in the public service. A male or female civil servant may apply for leave without salary, if he or she shares a common household with at least one child under the age of 18 and actually looks after this child. The Fifth Act to Amend Civil Service Regulations, which came into effect on 1 August 1984, extended the maximum permissible duration of this leave from six to nine years. Since this is a case of leave, it is associated with a job guarantee.

10.7 Provision of child-care facilities (letter c)

(158) The provision of daytime child-care facilities (kindergartens, crèches) is, according to Article 5, Para. 1, first sentence, of the Youth Welfare Act (JWG), one of the tasks which are the responsibility of the Youth Welfare Offices and non-governmental welfare institutions. Within the framework of the desired reorganization of youth welfare legislation, the Federal Government is attempting to expand the forms of child care supported by public funds. Since the implementation of youth welfare legislation and, therefore, financing of the corresponding facilities is the responsibility of the Laender and communities, according to the division of tasks between the Federation and the Laender specified in the Basic Law, corresponding statutory regulations can only be achieved in close coordination with the Laender and the local authority associations. Apart from this, employers are entirely free to set up company-run kindergartens, whose facilities must comply with the relevant Land regulations and which are subject to supervisory control in accordance with the Youth Welfare Act.

11. Equality of men and women in health care (Article 12)

(159) In the Federal Republic of Germany, there are no restrictions on women going to a freely practising doctor or to a hospital for treatment. There are no regulations restricting the access of women to health care services. The free services during pregnancy prescribed by Para. 2 are provided by the free maternity advice services laid down in the legislation.

12. Equality of men and women in the financial and cultural fields (Article 13)

(160) Women have the same right as men to family allowances, the taking out of bank loans, mortgages and other financial credits. Women also have the same rights in cultural life (e.g. participation in leisure activities, sports).

13. Equality of rural men and women (Article 14)

13.1 Right of participation (letters a and f)

(161) There are no constitutional, statutory or administrative provisions which exclude women, including rural women, from participating in the elaboration and implementation of development plans at all levels. Women have the same access to community activities.

13.2 Access to health-care services (letter b)

(162) Women in rural areas also have access to adequate health-care services, including information and counselling services.

13.3 Social security (letter c)

(163) As of 1 January 1986, the 3rd Agro-social Amendment Act of 20 December 1985 has made it possible for farmers' wives in the Federal Republic of Germany to receive a direct payment of one third of the old-age pension granted to the spouse.

(164) The social security of farmers' wives was improved decisively by the Act on Surviving Dependents' Pensions and Child-Raising Periods, which came into force on

1 January 1986. Mothers or fathers will be granted an extra year's pension entitlement, where, after the 1st of January 1986, they reach the age of 65 or take advantage of the early retirement scheme and where, instead of pursuing other employment, they look after their own child during the first year of its life. The period devoted to the upbringing of children has the effect of establishing and increasing a pension claim. For farmers' wives, child-raising periods are also recognized in the statutory pensions insurance scheme. If the beneficiary was never insured, she can choose between the workers' or employees' pensions insurance schemes.

(165) In addition, some Federal Laender have instituted the following measures to improve the social security of farmers' wives:

- Promotion of village help and industrial assistance to avoid distress situations in families and companies if the farmer's wife or the manager of the agricultural undertaking is unable to work.

- Promotion of counselling of farming families in the social field by corresponding grants to the professional organizations.

- Promotion of recuperation facilities for farmers' wives as a contribution towards preventive health care for rural women.

13.4 Access to formal and non-formal education and training (letter d)

(166) Men and women have equal access to agricultural training occupations. Nor are there any legal provisions constituting a discrimination against women within the framework of vocational advanced training in the agricultural sector (technical schools, technical colleges and universities).

13.5 Organization of self-help groups (letter e)

(167) Rural women have the right to form self-help groups of any kind and to form or join organizations. With over 550,000 members, the German Association of Rural Women is one of the largest women's associations in the Federal Republic of Germany and one of the most important providers of further education for rural women. Its events are aimed at farmers' wives and women living in the coutry in order to encourage them to take up technical further education and activities for the good of the community.

13.6 Access to loans, marketing facilities, etc. (letter g)

(168) All women, including women in rural areas, have access to credits and loans, marketing facilities or appropriate technologies. They receive equal treatment in land and agrarian reforms and land resettlement schemes.

13.7 Adequate living conditions (letter h)

(169) The increasing activity of women on farms makes it necessary to take measures allowing rationalization of work in the home.

(170) The "Programme for Farmers' Wives" of the early 60s and, subsequently, the "Improvement of Living Conditions" scheme within the framework of the joint task "Improvement of the Agrarian Structure and Coastal Protection" in the early 70s were major contributions towards improving living conditions in the country, particularly as regards housing, sanitation and (hot) water supply.

(171) It may be assumed that there are today hardly any differences between households in the country and in the town. The order of succession to a farm is guaranteed in the same way for both sexes.

14. Equality with men as regards legal capacity, contractual capacity and choice of domicile (Article 15)

(172) The legal principles relating to the equality of men and women before the law in the Federal Republic of Germany have already been described in detail in conjunction with Article 2 of the Convention. Consequently, reference can be made to this information in order to avoid repetition.

(173) Under the legal system of the Federal Republic of Germany, women have the same legal capacity as men in matters of civil law and the same opportunity of exercising this legal capacity. A woman can conclude contracts, manage her assets and have recourse to the courts in the same way as a man. Contracts or other private documents whose legal effect is aimed at restricting the legal capacity of women are forbidden.

(174) In addition, women - like men - are guaranteed the basic right of freedom of movement (Article 11, Para. 1, of the Basic Law). As regards the restriction of this right by virtue of Article 11, Para. 2, of the Basic Law, women are subject to the same restrictions as men. They also have the same rights as men as regards the choice of their domicile. The former right of the husband to determine the domicile of his wife was abolished by the Equal Rights Act of 18 June 1957 with effect from 1 July 1958.

15. Equality of men and women in matters relating to marriage and family relations (Article 16)

(175) According to Article 6 of the Basic Law, marriage and family enjoy the special protection of the state in the Federal Republic of Germany. Legislation on marriage and family must, in particular, be based on Article 3, Para. 2, of the Basic Law, according to which men and women have equal rights. The Federal Republic of Germany has already reported on the requirements for matrimonial and family law, as well as their normative implementation, arising from the aforementioned constitutional provisions, in its two national reports on the national implementation of the rights recognized in the International Pact on Civil and Political Rights (Doc. CCPR/C/1/Add. 18, dated 30 November 1977, and Doc. CCPR/C/28/Add. 6, dated 12 November 1985, corrected version). Reference is made to the statements in the reports on Articles 3, 23 and 26 of this Pact, and also to the general explanations of the content and development of the constitutional and legal position in the Federal Republic given above in relation to Article 2 of the Convention.

(176) Under the legal system of the Federal Republic of Germany, marriage is basically regarded as a life-long community of two persons of different sexes. In this community, the principle of partnership applies. Both partners have the same rights and the same responsibilities towards each other and towards their children. The following applies in relation to the individual items addressed in Article 16:

15.1 Same right to enter into marriage and free choice of spouse (letters a and b)

(177) Article 6, Para. 1, of the Basic Law contains the basic right of entering into marriage with a self-chosen partner of the opposite sex. This human right applies equally for men and women. The matrimonial law of the Federal Republic of Germany contains no provisions differentiating between the sexes as regards the prerequisites for the right to enter into marriage and to choose the partner freely. The declaration of two persons engaged to marry that they wish to enter into marriage with one another must be made in person and by both simultaneously in front of a registrar. This form of entering into marriage safeguards the freedom of marriage (in relation to the prerequisites for marriage, also refer to the statements on Para. 2 of Article 16 of the Convention). Marriages are recorded by the competent registrar in the register of marriages.

15.2 Same rights and responsibilities during marriage and at its dissolution (letter c)

(178) According to Article 1353, Para. 1, of the Civil Code (BGB), husband and wife are equally and mutually committed to conjugal life. Since neither of the spouses has preferential rights, all decisions affecting married life must be reached in partnership by mutual agreement.

(179) The equality of the spouses in marriage is reflected, inter alia, in the statutory regulations on household management, maintenance, choice of family name, employment (cf. Para. 1, letter g) and property in marriage (cf. Para. 1, letter h). According to Article 1356, Para. 1, of the Civil Code (BGB), the spouses mutually agree on household management. According to Article

1360 BGB, the spouses are mutually committed to maintain the family appropriately through their work and with their assets. If household management is left to the responsibility of one of the spouses, this management of the household usually represents fulfilment of the obligation to contribute towards the maintenance of the family by work.

(180) As regards dissolution of marriage, the equal rights of men and women are ensured by the fact that either partner can apply for a divorce under the same legal preconditions if the marriage has irreparably broken down (Articles 1564 ff. BGB). If the man or wife cannot support himself or herself after the divorce, each has the right to claim maintenance from the other spouse in accordance with regulations applying in the same way to both. (Articles 1569 ff. BGB). As regards conflicts arising in relation to property rights after the divorce, the law again makes no distinction between men and women. If the spouses lived in the statutory matrimonial property regime of accrued gains (cf. Para. 1, letter h, in this context), the spouse with the lower matrimonial property accrual can demand equalization of the accrued gains from the other spouse (Articles 1372 ff. BGB). Pensions are also equalized in a manner similar to the equalization of accrued gains (Articles 1587 ff. BGB). The spouse acquiring higher pension entitlements than the other during the marriage is obliged to pay the equalization sum. The other spouse is entitled to claim one half of the difference in value as compensation.

15.3 Same rights and responsibilities as parents (letter d)

(181) According to Article 1626, Para. 1, BGB, father and mother have the same rights and responsibilities for their minor children. The parents must jointly exercise this parental care. If differences of opinion exist between them, they must try to reach agreement. If the differences cannot be settled, neither of them has priority in making decisions. If an important matter on which the parents cannot agree is concerned, they can call upon the guardianship court in accordance with Article 1628 BGB; however, this court does not make a decision itself, but first tries to mediate an agreement between the parents, otherwise awarding the competence to decide to one of the parents, if this is necessary for the good of the child. A ruling introduced by the Equal Rights Act in 1958, whereby, in contrast to former law, the father no longer had general precedence in relation to parental power, but still had a right to make a final decision, was declared void by the Federal Constitutional Court as it violates the principle of equality of men and women.

(182) According to Article 1629, Para. 1, BGB, parents can only jointly act as legal representatives of their children. The sole representation right of the father, introduced by the Equal Rights Act in 1958, was also nullified by the Federal Constitutional Court as it violates the principle of equality of men and women.

(183) Basically, both parents have equal rights and responsibilities in matters relating to their children even after dissolution of the marriage. According to Article 1671, Para. 1, BGB, the family court decides in such cases which parent is to be given the parental custody of

the children born from the dissolved marriage. Termination of the family community usually destroys the basis for joint exercise of parental care and custody. The court must take the decision which will be best for the good of the child. Here, the right of custody can be given to either the father or the mother. According to a decision reached by the Federal Constitutional Court in 1982, parental care and custody may be left with both parents in exceptional cass, if this is compatible with the good of the child and both parents are willing and able to exercise the joint right of care and custody.

(184) The mother is entitled to the parental care and custody of an illegitimate child in accordance with Article 1705 BGB. She is assisted by the Youth Welfare Office as official guardian (Articles 1706, 1709 BGB) in certain individual matters (establishment of paternity, assertion of maintenance claims, settlement of inheritance rights). This ruling is designed to afford special protection for the interests of an illegitimate child.

(185) In all other respects, the interests of the children are "paramount" in the sense of Article 16, Para. 1, letter d, final sub-clause of the Convention. In this context, attention should be drawn, for example, to the ruling in Article 1626, Para. 2, BGB, according to which the parents must take into account the growing capacity and growing need of the child to act independently on his or her own responsibility, and also discuss matters of parental care and custody with the child, insofar as he or she has reached an appropriate stage of development, and try to reach agreement with the child. According to Article 1631 a BGB, the parents must give particular consideration to the aptitude and inclination of their children in matters relating to training and profession.

In cases of doubt, they should ask a teacher or other suitable person for advice. If this is not done, and if there are justified reasons for fearing that the development of the child may be lastingly and severely impaired, the guardianship court decides on the action to be taken. The law also repeatedly refers to the good of the child as the guiding principle in other contexts (cf., for example, Articles 1628, Para. 1, and 1671, Paras. 2, 3 and 5, BGB). In case of risk to the physical, mental or spiritual well-being of the child, the guardianship court must, in accordance with Article 1666, Para. 1, BGB, take the necessary action to avert the danger. However, according to Article 1666 a, Para. 2, BGB, it may only completely withdraw the right of care and custody if all other measures have proven unsuccessful or if it is to be assumed that they will not suffice to avert the danger.

15.4 Same right to decide on the number and spacing of children (letter e)

(186) The decision as to the number and spacing of their children must also be taken by the parents jointly and on their own responsibility. Family planning and birth control are entirely the personal responsibility of husband and wife. Both are reliant on reaching agreement on this matter in accordance with the principle of partnership. In the Federal Republic of Germany, the information necessary for practising responsible parenthood is available to anyone so interested. Anyone can receive medical advice on these questions. Information on family planning and birth control is also offered in information brochures accessible to the general public.

15.5 Same rights and responsibilities with regard to guardianship, wardship, adoption, etc. (letter f)

(187) In the Federal Republic of Germany, there are essentially no differences between men and women with regard to guardianship (Articles 1773 ff. BGB), wardship (Articles 1909 ff. BGB) and adoption (Articles 1741 ff. BGB) of children. They are equally entitled to make use of these legal institutions within the framework of the statutory prerequisites. In this context, the interests of the child are always given priority consideration on the basis of the highly differentiated pertinent rules. According to Article 1741, Para. 1, BGB, adoption is only permissible if it is for the good of the child.

(188) The right of care and custody of a child and the statutory duty of care for a child's property are, according to Article 1626, Para. 1, second sentence, BGB, part of parental care and custody. This aspect has already been commented on.

15.6 Same rights in choosing a family name, a profession and an occupation (letter g)

(189) From the principle of equal rights of husband and wife, it also follows that they are entitled to exercise their own personal rights in the same way during the marriage. This applies in particular to the choice of the family name. The bonds between the spouses are manifested publicly in the Federal Republic of Germany by the use of a common family name, the married name. Until 1976, the rule applied that the name of the husband always became the married and family name. This ruling was changed with effect from 1 July 1976 by the First Act to Reform Matrimonial and Family Law, dated 14 June 1976 (Federal Law Gazette I, Page 1421). According to Article 1355 BGB, the

spouses can today choose whether they wish to use the name of the wife or that of the husband as their married name. This requires a corresponding declaration, to be made to the registrar at the time of marriage. The spouse whose birth name does not become the married name has the right to put that name in front of the married name.

(190) Article 1356 BGB, also pursuant to the First Act to Reform Matrimonial and Family Law, states that both spouses are entitled to engage in gainful employment. This ruling is connected with the shift of matrimonial law away from the so-called "housewife's marriage". In this context, the law formerly prescribed that the wife alone managed the household on her own responsibility and that she was only entitled to engage in gainful employment if this did not conflict with her marital and family responsibilities. On the other hand, the wife was obliged to take up gainful employment if the working capacity of the husband and the income of the spouses were insufficient to maintain the family. The difference now is that the spouses can settle matters of household management by mutual agreement without legal compulsion; both have the right to engage in gainful employment, but both must also give due consideration to each other and the family, i.e. particularly to the needs of the children, in choosing and engaging in gainful employment.

15.7 Same property rights (letter h)

The spouses are also put on an equal standing in relation to property rights. Matrimonial property law provides them with a choice of three regimes: accrued gains, separation of goods and community of goods. In the accrued gains regime, each spouse retains the property held before the marriage, as well as that acquired during the marriage, as their personal property, also managing it

independently. However, in the interests of the other spouse, they are subject to certain restrictions in disposing of their property. Each spouse is liable only for his or her own debts. In the event of dissolution of the marriage by divorce or death, the one spouse receives a share in the accrued gains (increase in assets) acquired by the other spouse during the marriage (except acquisition mortis causa, by gift or similar). Here, the law assumes that the gains accrued by one spouse were also made possible by the work of the other - e.g. by managing the household - meaning that it is justified to give the other spouse a share of these gains. In case of divorce, the spouse with the smaller accrued gains in the marriage can demand equalization of the gains from the other spouse (cf. Articles 1372 ff. BGB). Following the death of one spouse, equalization is usually accomplished by a global increase in the share of the inheritance (Article 1371 BGB).

(192) In the case of separation of goods, which can be agreed in marriage articles, each spouse again retains the property brought into the marriage or acquired by him or her, manages it independently and is liable only for his or her own debts. There are no restrictions on disposal. There is no equalization of accrued gains if the marriage is dissolved.

(193) Community of goods can also be agreed on in marriage articles. In this case, the property brought into the marriage by the spouses, and that acquired during the marriage, becomes the joint property of both. The spouses can also possess property of their own.

(194) In all the legally possible forms of matrimonial property regime, no differences are made on the basis of sex. Rather, the various rights and obligations of the spouses are designed to be independent.

15.8 Minimum age for marriage and registration of marriages (Para. 2)

(195) Under the laws of the Federal Republic of Germany, engagement and marriage of minor children is impermissible. The prerequisites for marriage must always be fulfilled for engagements, the latter being a declaration of intent to marry subsequently. A marriage (and engagement) can only be entered into by a person of marriageable age. "Of marriageable age" essentially means of full age, i.e. over 18 years of age for Germans. An exemption from the requirement of full age can be granted if the applicant is at least 16 years old and his or her future spouse is of full age. A person under full age entering into a marriage also requires the consent of the legal representative and the person having care and custody, although this can be substituted by the guardianship court if refused without good reason. The Federal Republic of Germany has also accepted international obligations in this field by signing the Convention on the Declaration of the Will to Marry, the Minimum Age for Marriage and the Registration of Marriages, dated 10 December 1962.

(196) According to Articles 9 and 12 of the Marital Status Act,

- every marriage must be recorded in the register of marriages in the presence of the spouses and the witnesses, and

- following the marriage, a family record of births and deaths must be established, the marriage being entered in columns 1 to 3.

(197) The regulations contain no discrimination against women.

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Convention on the Elimination of All Forms of Discrimination against Women

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Discrimination against Women

EXAMINATION OF THE REPORTS SUBMITTED BY THE STATES PARTIES
IN CONFORMITY WITH ARTICLE 18 OF THE CONVENTION

Initial Reports of the States Parties

PERU

V.88 31288 3268e

ADVANCES TOWARDS THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN IN PERU

Discrimination against women began with civilization itself, being directly related to the way power relationships evolve in society. The woman was always limited to reproductive functions within the family, while the man's concerns were with the political, economic and cultural affairs of society.

Peruvian society has its origins in this model of the sexual division of labour and its attendant power relationships, a model in which women suffer from the pressures inherent in their status of dependence.

Accordingly, the situation of women in our country demonstrates to us their status of disadvantage vis-à-vis the male population.

There have been movements in the country, especially since women have begun to lend their weight to different approaches to this problem. The State too has undertaken significant initiatives in the legislative area.

With the International Women's Year came an impulse for reflection on the problems facing women and for the shaping of a number of initiatives on behalf of sexual equality.

In Peru, for example, the Political Constitution of the State in 1979 proclaimed the full equality of the sexes, and in 1984, following the philosohpy of that document, the Civil Code introduced equal rights and obligations for men and women.

General considerations

The Republic and sovereign State of Peru is governed under a political system of representative democracy. The country's total area covers 1,285,215.6 km^2, including the coastal islands and the Peruvian part of Lake Titicaca; of this total, the insular area amounts to 133.4 km^2.

The territory of Peru is divided into three regions: the Coast with an area of 141,347 km^2, the Sierra (highlands) with 385,562 km^2, and the Selva (jungle) with 758,277 km^2. Our country is the third-largest in South America, after Brazil and Argentina. With regard to its political and administrative structures, Peru is a democratic and social republic, independent and sovereign, based on labour.

The national Government is unitary, representative and decentralized. Peru is divided into 24 departments and one constitutional province (El Callao), 177 provinces and 1,736 districts, which correspond, respectively, to the larger, intermediate and smaller units into which the country is politically and administratively broken up. The capital is Lima and is located at the centre of the coastal zone, which together with Callao forms the metropolitan area, with a concentration of 27 per cent of the total population of the Coast, another 23 per cent of the population being distributed among the other departments of the coastal region. The Coast is the most economically developed and most densely populated zone, while the Sierra is the least developed and accounts for 39.4 per cent of our country's total population. The Selva, the largest part, is the most thinly populated, with only 10.6 per cent of the population and a low level of development (Peru, Compendio Estadístico 1986, National Institute of Statistics (INE)).

The Peruvian population and its geographical distribution by region in 1988

Total population: 20,207,100 inhabitants

Zone	%	Inhabitants
Coast	50.0	10 103 550.00
Sierra (highlands)	39.4	7 961 597.4
Selva (jungle)	10.6	2 141 952.6
Total	100.0	20 207 100.0

Source: National Institute of Statistics. Prepared by CEDM-SE, Ministry of Justice, 1988.

The total population of our country in 1986 was put at 20,207,100 inhabitants, 49.7 per cent of them being female and 50.3 per cent male.

In accordance with these general characteristics, it is proper to say that Peru cannot be regarded as a whole, given that there exists within it a multiplicity of nationalities exhibiting conceptual and behavioural patterns and value systems proper to each ethnic group.

In addition, Peru is a large country with a geography and climate that in many places are wild, hostile and diverse, with the result that specific measures, when introduced, do not everywhere produce the same impact.

The uneven growth of the population, moreover, is due to the migratory flow from the countryside to the towns as people relocate in search of better living conditions and greater opportunities for work, education and services.

It is necessary to point out that, because of these factors, our Peruvian society has become polarized into a kind of antagonism between the towns and the countryside. These are a few considerations that will help us in endeavouring to analyze why discrimination against women persists in our country despite the fact that since 9 June 1981 Peru has been a Party to the Convention on the Elimination of All Forms of Discrimination against Women, which was ratified under Legislative Resolution No. 23432 of 4 June 1982.

Seven years have elapsed since the signing of the Convention by our country, and, despite the progress achieved, the objectives and goals set forth in that document have not been met in all their aspects.

Legislation and discrimination

The Convention on the Elimination of All Forms of Discrimination against Women contains principles and measures to ensure that women enjoy equal rights in all areas. It was signed by Peru on 9 July 1981 and ratified under Legislative Resolution No. 23432 of 4 June 1982.

Article 2, paragraph 2, of the State Constitution proclaims the right to equality before the law without any discrimination for reasons of sex, race, religion, opinion or language. Men and women have equal responsibilities and opportunities.

Article 4 of the Civil Code of 1984 states that men and women have equal capacity for the enjoyment and exercise of civil rights.

Article IV, paragraph 9, of the Preliminary Title of the National Population Policy Law, Legislative Decree No. 346 of 1985, also states that the national population policy guarantees the rights of all persons to equality before the law, free from any form of discrimination.

Since 1979, the Political Constitution of Peru has endowed women with rights that are on a par with those of men, although in practice this has not meant the elimination of the discriminatory situation facing women, the reason being that a change in law does not necessarily imply a change in real conditions.

Legal instruments such as the Code of Commerce of 1902, the Code of Civil Procedure of 1912, and the Bankruptcy Procedure Law of 1932 continue to contain provisions that are not in harmony with conditions of equality between men and women since the latter remain subject to their husband's authorization for the exercise of commercial acts, although there is provision for intervention by the court in cases of a refusal on the part of the husband, whenever such intervention is justified by the interests of the family.

In the case of family mismanagement, the woman is answerable in the form of her own goods.

Leave for maternity, which is a natural right of women, is in practice very "inconvenient" for the employer, who "loses" a worker "for such a long time". This is an example of how statutory equality for women results, in many areas, in a strengthening of the obstacles that women, in attempting to develop themselves fully, normally face in society, primarily for reasons of gender, given the persistence of the erroneous notion that women are "incapable" of holding "certain" positions.

In the fiscal area, no distinction is made between men and women with regard to the payment of taxes. The woman, as "housewife", is regarded as a "family dependant", whose "employer" is the male, according to the application form for exemption from income tax payment to the Department of Taxation.

In article 2, paragraph "g", of the agreement on non-discrimination against women, there is provision for the repeal of all national penal regulations that embody such discrimination. Our criminal legislation, which dates back to 1924 and was enacted in response to realities and thinking different from those of the present day, remains in force. Here, there are two situations in which the penal regulations involve discrimination against women in Peruvian society. On the one hand, there is the problem of rape, which, although it represents a genuinely grave offence and one that affects the woman's most elementary rights, such as her sexual freedom, her physical and mental integrity, and her right to the unimpeded development of her personality, is none the less punished as one of the offences against morality, so that the legal good protected is a moral concept and not, specifically, the human person. Consequences of this are that the crime of rape is prosecuted only upon complaint by the damaged party and not automatically, that

marriage with the rapist results in exemption from punishment, and that rape within marriage is not penalized, all facts that, inter alia, are clearly to the detriment of women.

The second problem is that of abortion. The policy in this regard in our country is a repressive one, with the sole exception of abortion performed for therapeutic reasons. At the same time, with the exception of a few merely declaratory norms, no vigorous policy has been instituted to prevent this phenomenon. The consequences of this situation are universally negative: for women, since abortion represents one of the greatest causes of morbidity and mortality among mothers in our country; for the State, because of the exorbitant costs involved in providing hospital treatment for women who, owing to their poor economic condition, resort to unauthorized operations as the only resource available to them, and who then require adequate treatment for their recovery; and, finally, for the society, because the performance of abortions has become a clandestine industry working to the material advantage of those who profit through this illegal practice.

Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women requires the States Parties to introduce a series of measures, including steps of a legislative nature, to suppress the traffic in women.

Prostitution in our country constitutes a social problem that is increasing even further as a result of the economic crisis facing Peru as a developing nation. It is necessary that the task of gradually bringing this problem under control should be approached from a variety of perspectives, recognizing that prostitution is one more form of violence directed against women.

Prostitution represents a way of life among the few possibilities for earning an income available to certain women, particularly in the least advantaged social classes.

We believe that prostitution will not disappear so long as gender discrimination exists and continues to give rise to a constriction of job opportunities for women.

In the face of Peru's commitment as a State Party to take decisions regarding appropriate measures, including those of a legislative nature, to suppress all forms of traffic in women, we might note that since 1910 there have been in force in our country internal regulations known under the term then given them as "special police licences" and designed to "regulate and control" specified establishments, including brothels. Since the enactment of that ordinance, there has been a series of successive legal regulations: Supreme Decree No. 001-72-IN of 31 January 1972, amended by Supreme Decree No. 029-79-IN, amended in turn by Supreme Decree No. 009-82-IN of 31 March 1982.

Since 25 February 1983, the Ministry of the Interior is no longer in charge of the implementation of this decree, responsibility for which has been transferred to the provincial municipalities, which have been empowered to grant mayor's office licences ("licencias de alcaldía") through the respective Department of Internal Revenue. This supreme decree has been in force since 2 May 1983.

It is necessary to point out that, among other types of establishments, the decree regulates brothels and houses of assignation, indicating the location, the ban on the work of women who are still minors, the requirement for a renewable health card, and mandatory registration in the Registry of the Division of Special Licences.

The Criminal Code classifies prostitution among the offences against morality and penalizes those who induce or coerce women into prostitution or who exploit the prostitution of women for their own ends.

We understand that the regulation of the exercise of prostitution involves a series of negative consequences for the woman who finds herself in that situation, one of them being that regulation institutionalizes prostitution as a form of women's work.

Regulation, far from controlling prostitution, on the contrary breeds the conditions for its clandestine proliferation.

With regard to nationality, the Political Constitution of the State makes it clear that the fact of marriage has no effect on the nationality of the woman.

Renunciation of nationality is the only way to acquire a new nationality. There are international agreements which our country has concluded with Spain and at the Latin American level and which in practical terms mean that the adoption of any of these nationalities (Spanish or that of any Latin American country) has no effect on the nationality of origin.

The labour laws accord special treatment to aliens with a Peruvian spouse of either sex, not regarding them as falling within the limiting percentage for the number of foreign workers at an enterprise, as is true in the case of aliens married to a foreign spouse, whether male or female.

The National Population Policy Law, Legislative Decree No. 346, enacted in 1985, incorporates as a legislative measure a policy of equality with regard to the sexes, specifying in its article 2 that "... the State strengthens the family as the basic unit of society, promoting and supporting its stability and formal constitution. It carries out, to this end, actions to make it easier for couples to gain an awareness of the value and rights of children in respect of their raising and socialization as responsibilities of both the man and the woman, and regarding the equal treatment of both sexes as a guarantee of greater harmony and stability in the couple's development ...". In addition, recognition is given to, and value placed on, family work in the home, through a provision that calls for such work to be assumed by the man as well as by the woman.

With respect to the provisions of paragraph (b) of the same article, which refers to guarantees that family education should include a proper understanding of maternity as a social function, the afore-mentioned National Population Policy Law states that "The State guarantees the exercise of responsible paternity, understanding by this the couple's basic right to determine, freely and responsibly, the number and spacing of their children, and the duty of fathers to raise them and to provide adequately for their proper and essential needs".

Despite the progressive legislation represented by the National Population Policy Law, in practice these provisions are not known by the population to which they are directed. As a result, traditional behavioural patterns that discriminate against women continue to exist, so that one of the urgent and necessary requirements is the initiation, within our society, of a properly designed and aggressive campaign to disseminate information on rights that have already been recognized.

Family

The Political Constitution of the State establishes, in article 2, paragraph 2, equality between men and women and goes on to recognize for women rights on a par with those of men in specific situations.

The Civil Code of 1936 set the minimum age for marriage at 18 years for males and 16 years for females.

The husband represented the conjugal union and was the one who determined the conjugal domicile, a circumstance that, inter alia, implied an advantage for him. Accordingly, this legal instrument contained an overt element of discrimination against women.

The afore-mentioned Civil Code did not recognize the existence of concubinage, which is a de facto union between a man and a woman, a union legally recognized by the Constitution of the State and a form of relationship practiced by many couples in our country.

Changes were introduced into our legislation with the enactment of the new Civil Code in 1984, which in fact does refer in its text to de facto unions, but only with respect to property arrangements. To this end, the union must have lasted for at least two continuous years and there must be written proof to this effect (article 326 of the Civil Code). With respect to marriage, the new code lowers the legal age limits to 16 and 14 years for males and females, respectively, where there are serious reasons. Minors require the consent of their parents or, lacking it, that of their grandparents and in any case the authorization of the juvenile court judge (article 244).

With respect to the husband's name (article 24), it is no longer required that it be added to the wife's surname and preceded by the preposition "de" ("of"), such addition now being regarded as a right and, as such, subject to the will of the woman.

Under the Civil Code currently in force, both spouses have the right to participate in the management of the household and to establish and change their conjugal domicile. Each spouse may engage in any profession or industry permitted by law (article 293) and perform any work outside of the home, but only if this is justified in the light of family interests, whereby the fact is disregarded that the reason for such outside work might simply be the personal development of the woman, to cite one example.

With reference to the family goods, there are two recognized property systems within marriage: community property or joint ownership of goods acquired during marriage, on the one hand, and the separation of property, on the other. Under the first system (article 313), both spouses are responsible for the management of the property, whereas under the second, each retains the right to administer freely his or her own goods.

We should observe that no longer included is the category of reserved goods whose management fell to the woman, and that neither has there been retained the woman's right to the management of the household in its totality, a situation that in practice places her at a greater disadvantage.

With regard to children in the event of separation, the responsibility for their care is generally entrusted to the woman, with the exercise of this care to

be guided by essentially humane criteria and not on the basis of age or sex. Greater priority is to be accorded to decisions reached jointly by both parties.

For physical separation or divorce, our country recognizes a number of causes expressly indicated in the law. According to article 333 of the Civil Code, these causes are: adultery, attempt on life, serious injury, abandonment of the home, dishonourable conduct, use of drugs, serious venereal disease, homosexuality, a sentence to loss of freedom for a period of more than two years, and mutual dissent.

In actual practice in this area, it is often difficult to present proof reliably demonstrating, for example, brutality or serious injury. With respect to mutual dissent, the required two-year period for submitting an application on these grounds would seem to be excessive in certain cases.

Analysing the changes we have mentioned, it would be fair to say that they have not been of a qualitative nature with regard to the concept of the family and the woman, but rather that they have been more concerned with property, disregarding the couple and family relationship as an essentially human one. Because of customs and cultural concepts generated by the previous Code, in reality it is the man who assumes the direction of the conjugal union, impeding the full participation of his wife. To this may be added the presence, in a large number of cases, of violence directed against the woman within the existing man-women relationship.

Political participation

The conferral of citizenship on women under Law No. 12391 of 7 September 1955 put an end to the most obvious instance of discrimination against that sex. Until that time, women enjoyed no type of participation in the politics of the country for the reason that they lacked the right to vote.

At present, women account for 44 per cent of the electoral population as opposed to 56 per cent for men, a fact that demonstrates the existence of active participation on the part of women in the exercise of their right to vote. However, we must not forget this is only one of the aspects of the complex relationship between women and political participation. Over and against this participation remains the fact that it is men who at the political level hold the decision-making positions and guide the destiny of our society, and who set the standards in areas relating to women's concerns, such as health, work, family relations, etc., all areas in which women are not only directly affected, but conspicuously absent in the formulation of government policy regarding them. A consequence of this is that women do not vote with a view to their own needs and concerns and fail, through their vote, to support the few women who come forward to represent them in the political arena.

Greater participation by women at the decision-making level in the Parliament would broaden the opening for the discussion and proposal of better conditions in all those areas that comprise women's concerns, such as voluntary and conscientious maternity, the problem of rape and its legal treatment, the right to freedom from mistreatment by their partner, etc. - all problems the approach to which must be recognized as involving a political element.

Table No. 1

Leaders of main political fronts and parties by sex
1983-1987

Parties	1980 Men	1983 Women	1985 Men	1987 Women
Alianza Popular Revolución Americana (Popular Alliance of the American Revolution)	85	15	84	16
Alianza Popular (Popular Alliance)	77	23	82	18
Partido Peruano Comunista (Peruvian Communist Party)	95	05	90	10
Izqierdas Unidas (United Left)	96	04	83	17

Table No. 2

Legislative Branch: 1980-1985

Senators and deputies by sex, Lima, Peru

Senators 1980 Total 60 (58-2)				Senators 1985 Total 62 (59-3)			
Men	%	Women	%	Men	%	Women	%
58	96.7	2	3.3	59	95.2	3	4.8

Deputies 1980 Total: 162				Deputies 1985 Total: 180			
Men	%	Women	%	Men	%	Women	%

Education

Beginning with the textbooks used in our schools, women are depicted as mothers and wives performing a role secondary to that of the man.

The proposal put forward in the General Education Law, Law No. 19326 of March 1972, in article 11 of Title I "Guidance for a revaluation of women", offered women the same opportunities as men for free and full personal development as the sole authentic basis for the performance of their key family function and their creative participation in the process of transforming and improving Peruvian society.

The Regulation on the Revaluation of Women, Supreme Decree No. 16-72-ED, brings to bear on the orientation of activities at all levels educational sector measures and programmes aimed at the revaluing of the role of women, with the latter to be ensured access to all areas of work training without discrimination on the grounds of sex.

Chapter II of this Supreme Decree calls for the creation of the Technical Committee for the Revaluation of Women, to promote, supervise and co-ordinate educational activities directed at this revaluation, and to formulate a policy of multisectoral action towards this end, involving the generation of an awareness of this subject on the part of women and the general community.

This decree was cancelled by another (Supreme Decree No. 007-76-ED of 9 June 1976), which approved a new set of regulations for the revaluation of women in accordance with a body brought into being on 30 December 1974 and known as the "National Commission for Peruvian Women" (Decree-Law No. 21045 of 30 December 1974). This law was subsequently superceded by Decree-Law No. 22127 of 28 March 1978 on the grounds that the existence of the Commission was unnecessary, despite the fact that earlier attention had been called to the need for such a body as a means of channelling the efforts of the country's women's associations.

On 28 July 1974 there was publicly announced the Plan of the Revolutionary Government of the Armed Forces, known as the "Inca Plan".

This plan contained the following points:

"The Peruvian woman is not effectively exercising her civil rights; access by women to high political, administrative and other positions is very limited; the husband disposes over the property of the marriage without the consent of his wife; there is discrimination against women in employment and in the remuneration of labour; there is unjust and inhumane treatment of single mothers; and the low cultural level of the majority of the people is adding to the severity of the problem of the mistreatment of women by men.

"Objective: Genuine equality with men in rights and obligations.

"Actions: To promote the participation of women in all activities and in high-level positions; to eliminate all discriminatory treatment limiting the opportunities or affecting the rights and dignity of women; to promote the mixed

On 8 October 1977, approval was given to the Túpac Amaru Plan, which urged the participation of women in decision-making positions and reaffirmed the objective of the integration of women in the economic and political life of the country. The Plan's intention was to promote greater access by women to the educational system and, beyond that, to disseminate programmes in harmony with the new image of women and to modify the legislation wherever it limited women in the full exercise of their rights.

In the educational area, the objective was to improve the levels of education, expand educational programmes, and reduce illiteracy. Further goals were to strengthen on-the-job occupational training at all levels and in all forms of the educational system, tying these programmes in with the work-related activities of the community.

It may be said that all of this demonstrates the interest that existed on the part of the Government in advancing the role of women within society. In practical terms, however, it has not been possible to achieve these objectives because of problems of, among others, a political nature.

The Political Constitution of the State, enacted in 1979, asserts in article 24 that it is the State's responsibility to formulate educational plans and programmes and to direct and supervize education for the purpose of ensuring its quality and efficiency in the light of regional characteristics, and to provide everyone with equality of opportunities.

Given the heterogeneous character of the country's regions, we believe that it is very important to respect the cultural characteristics of each region and to bring about in each of them a situation genuinely conducive to equality of opportunities for women. The General Education Law No. 23384 of 1982 contains aspects of the educational reform as proposed by the Government of that time. In this Law, mention is made of the levels of the educational system, of education at a distance through televized courses, and of functional literacy training.

The National Population Policy Law, Legislative Decree No. 346, in its Chapter II makes reference to the subject of public education and to its objectives, which are: to contribute to the total training of the population so as to enable it freely and responsibly to assume its roles in the improvement of family and social life; to inculcate positive attitudes towards responsible paternity and sexuality; and to guarantee the equality of women vis-à-vis men in a manner free of all discrimination.

It is important to note that there has been a change in the traditional view of roles within the family, the plan being to encourage coeducation as a means of arriving at equality between the sexes.

Nevertheless, in reality the hoped-for results have not been achieved since the relegation of women to secondary roles in school textbooks continues and there has been a failure to implement the introduction of coeducation effectively. These factors, coupled with the minority participation of women at decision-making levels, means that the situation of women in this respect may still be regarded as one of discrimination, and that the existence of legal norms on the subject has

speaks of "exclusion, under pain of punishment, of any form of discrimination for reasons of sex ..., race, religion, political affiliation, language, occupation, civil status or the socio-economic situation of either of the parents".

These provisions are reproduced in the regulations. For example, article 8 of the Primary Education Regulation (Supreme Decree No. 003-83-ED) establishes that a pupil at the level of primary education has the right to be treated with dignity and respect, without discrimination, and to be informed of such provisions as concern him as a pupil. In this context, article 9 of the Secondary Education Regulation provides evidence of a trend towards the reduction of differences in education between men and women. Nevertheless, despite the existing legal requirements, there continue to persist in our society customs that discriminate against women in the matter of their access to education, accomplishing this through the "machismo" which is prevalent in our country and which is also expressed in the home, where different roles are assigned to men and women, the latter acquiring the responsibility for the running of the family, while the former enjoy preference and overevaluation.

The statistics are significant on this point. According to official figures taken from the last census and referring to an illiterate population of 5 years of age and over totalling 3,510,830 persons, 36.3 per cent are male and 63.7 per cent are female (National Census of Peru, 1984). Along the same lines, statistics regarding enrolment in primary education in 1981 reveal that the female contingent represented 48.2 per cent of this school population in comparison with a male contingent of 51.8 per cent. If we analyze comparatively these percentages with those established for secondary education for the same year (1981), we can infer a higher dropout rate for females, since girls accounted for 45 per cent of this enrolment as opposed to 55 per cent for boys.

The dropout rate is higher among girls, being even worse in rural zones where girls account for 77 per cent of the school population in the group aged 6 to 14 years, but decline to 25.2 per cent in the 15-to-19-year group.

In conclusion, we can infer that the access of women to the different levels of the educational system lags behind that of men, given that the rate of schooling by sex in the 15-to-19-year age group is 61.3 per cent for men and 52.3 per cent for women.

Employment

Our country has no specific labour policy for women. Both men and women are entitled to job security, a just wage, vacations and weekly rest, social benefits and retirement.

The norms governing women's labour are found in Law No. 2851, which dates back to the year 1918 and establishes a working day of eight hours and a working year of 45 weeks, pre- and post-natal leave, special indemnification for unjustified dismissal (salaried women employees receiving two salaries and women workers 50 daily wages), indemnification in the amount of three additional salaries if the employee or worker is pregnant at the time of dismissal, nursery services, and the right of a working mother to nurse her child for one hour during the first year of

Women work under the same conditions as men, being unaware of their rights, many of which are contained in this law.

With respect to remuneration, here too there is discrimination, despite the fact that article 43 of the Constitution provides for the right of men and women workers to the same remuneration for the same work performed.

In the employment announcements published in the newspapers it is common to observe a preference for male workers. The proportion of women in decision-making positions is lower than that of men.

In the Andean zone, women's work is intense and manifold, but nevertheless they have neither a fixed working schedule nor a period of rest, nor are they paid an equitable remuneration.

The two hours of rest required under Law No. 2851 are not accorded, and in practice it is the woman who works most, since in addition to working the same schedule as the man outside the home, she must also carry out her domestic tasks and take care of her family.

If a woman suffers a work accident, the indemnification paid her for that cause must be 25 per cent higher than that which would be paid to a man.

On the question of work at home, Law No. 8514 of 1937, in article 13, establishes equality of wages as between men and women.

In order to demand the exercise of their rights, women may turn to their trade union or to the Ministry of Labour.

As is known, women represent a small proportion of the wage-earning population with the opportunity to enter or form trade unions. Added to this difficulty and to the growing conditions of job instability and more informal employment structures are the difficulties women face in participating in trade union life.

The majority of women in the labour market have occupations that do not meet the conditions for trade union affiliation: independent work, piecework, domestic employment, etc.

During the period 1978-1982, around 27 per cent of women were wage-earners, but only 19 per cent of all persons organized in trade unions were women. There appears to have been a slight increase in the participation of women in trade union life, but there is no doubt that this increase is substantial in absolute terms: the number has gone from about 3,000 union-organized women to more than 43,000 in 1982. (Source: Ministry of Labour. Report on Trade Union Movements for 1983)

Within the national pension system, Decree-Law No. 19990 of 1973 on the subject of retirement sets 60 years as the retirement age for men and 55 years for women.

Decree-Law No. 20530 of 1974 establishes the pension and compensation system for civil servants who have worked for the State and are not covered under the

The economically active population (EAP) (above 15 years of age) which has or is seeking work in the country numbered 5,171,949 in 1981, with women accounting for 25 per cent of this total. However, the most significant datum is to be found in the non-economically active population (those above 15 years of age who are neither working nor seeking work), which stood at 4.7 million and in which women, at 3,713,000, represent 79 per cent.

Discrimination against women in employment continues. According to data for 1984 (Ministry of Labour), 44.5 per cent of the female EAP was underemployed as opposed to 31.3 per cent of the male EAP; 11 per cent were unemployed as opposed to 7.1 per cent for men. Similarly, for that same year, we find that the average income of the male EAP was 159.4 per cent, while that of the female EAP was 73.7 per cent (assuming a base of 100 for the average income of the male and female contingents considered together).

As we can see, many of the legal provisions cited above are out of step with the reality, which continues to witness the practice of discrimination against women.

There are a large number of women whose work is ambulatory, which, according to a supreme decree of 25 June 1921, is prohibited to women, (on the other hand, women who have reached their majority are permitted to work at kiosks and fixed stands). This is an example of how the reality has divorced the legal norm from its context and has brought an urgent need to legislate for this sector, in which working conditions are not adequate.

Law No. 24514 or Law of Labour Stability, enacted in 1986, regards as a form of harrassment sexual molestation at the work-place in an advance that reflects recognition of the claims of working women.

Under Law No. 24705 of 1987, housewives are regarded as independent workers and are brought under the retirement system, provided that they were born before 30 June 1936.

We might conclude this section by noting that, with regard to occupational health, consideration must be given to the claims of working women with respect to the prevention of occupational risks, mandatory medical check-ups, special leave for fathers and mothers for the care of sick children, etc.

Health

Peru is one of the countries of Latin America which have the lowest public health indicators. Further, it is a country where there is a marked difference in this respect between the more disadvantage strata of society and the higher-income groups, whose health is generally better.

The State Constitution recognizes the importance of health and provides in its article 15 that: "All persons have the right to the protection of their total health and the duty to participate in the promotion and protection of their own health, that of their family and that of their community".

the objectives of the Convention regarding non-discrimination since it does not include a woman who, while not married, lives with the insured, i.e., women in households established de facto and not through marriage. This instance of discrimination against this group of women is a serious matter since in our country the de facto union represents a frequent family model, so that under the present provisions women who live under this arrangement suffer discrimination in terms of social security benefits.

In the face of this situation, the social security system increased its health coverage under Law No. 24705, which includes housewives and/or mothers of families as independent optionally insured parties. However, this provision will not equalize the situation of cohabiting women with that of wives, since it requires a monthly contribution of 5 per cent of the minimum living wage (which these women do not receive) as a condition of eligibility for social security benefits.

Moreover, among the priority measures envisaged in the search for the protection of women, the importance of the dual mother-child unit has been taken into account in the country's health policies. Without wishing to question this importance, we believe that the law should also devote specific attention to the health of the woman as well, since women's health care requires this. What this means is that health policies must take account of the woman's health requirements and demands as considerations parallel to the concern for the mother-child unit. In this way, it will be possible to achieve the objective of extending timely, comprehensive and high-quality services. As noted by Nancy Palomino in the "Health Survey" conducted in 1988 by the Special Commission on Women's Rights, "the specific health problems of women have to do not only with their reproductive function and the stages associated with maternity, but also with the work they perform and with periods in their life that do not necessarily correspond to their fertile age".

Moreover, despite the fact that during their period in office various Governments have assigned priority to mother-child health, the goals set in this area have not been reached, as indicated by the high rates of mother-child morbidity and mortality in our country. The causes here lie in the large number of parturitions per woman, the short intervals between early pregnancies, and the large number of abortions, whereby the latter represents the greatest health problem, which affects not only women, but the State and society in general, and in the face of which there is no adequate and persistent policy of prevention on the part of the State.

In practice, women put in a double working day, since after performing their remunerated work they return to the home to carry out their domestic chores. This involves an overload that strikes directly at their physical and emotional health. As pointed out by Nancy Palomino, "Recognition of the situation of subordination in which women live, of the multiple role they perform, and of their corresponding added burden should facilitate the formulation of policies and programmes. A further element in this connection is that families differ one from the other; the nuclear family model is no longer valid for all. The economic role women play should not be measured only by indicators such as the economically active population, but also by their provision of monetary inputs and their work in the home and in the community. The devaluation that women experience in society

is an element of family cohesion, her contribution to society is not secularly valuated to the degree that it should be. The rural woman suffers discrimination because of her sex and because of her immersion in the rural sector, the sector that has been most depressed throughout the history of our country.

With regard to labour, there are no specific legal provisions apart perhaps from the Mountain Lands Law No. 1220 of 1909, which, however, does not cover particular aspects proper to agricultural activity.

A regulation of 17 April 1925 requires the establishment on agricultural property of nurseries, which today represent one of the demands of rural women who need to have their younger children looked after so that they can attend to their agricultural tasks.

Rural women are engaged in the marketing of agricultural products and the manufacture of textiles and craft items, endeavours in which they can count on the support of such agencies as the Ministry of Agriculture, the Association of Co-operation with Rural Women (ACOMUC) and the Ministry of Industry for the organization of a variety of fairs at the national level for the sale of their products.

On the question of land tenure, the Agrarian Reform Law (Law No. 17716) discriminates against women by not recognizing them as direct cessionaries. The Law uses the term "head of family", authorizing the award of the land to the wife or permanent companion only in the event of the decease of the Agrarian Reform beneficiary. This provision is strengthened under the regulation contained in Supreme Decree No. 212-69-AP, which indicates as a requirement the responsibility, on the part of the head of family, for the support of his wife or permanent companion and children.

Similar consideration is given to women in Law No. 22175 (Law of Native Communities and for the Agrarian Development of the Jungle and Jungle Fringe), which specifies that "in the case of the decease of the owner of a rural estate, the wife or permanent companion and one or more of the children shall continue as heirs". The important aspect of the Agrarian Reform Law so far as women are concerned is that it legally recognized the existence of de facto unions, an Andean tradition based on the ancestral custom of "servinacuy" or "trial marriage", which was later incorporated into the State Constitution and taken up in the Civil Code and such laws as Law No. 22175, although the Civil Code takes it into account only for the regulation of property matters.

With regard to training, the Government displays continuing interest in the technical and cultural advancement of the farmer, but in practice this concern is directed basically at men. The National Institute of Agricultural Research and Promotion (INIPA) and the National Forestry Institute, among the agencies of the State, have organized training courses, and there is an agreement between the Ministry of Agriculture and the United Nations Food and Agriculture Organization (FAO) for the preparation of audiovisual courses targeted on the rural population.

to the latter - this in response to the fact that, owing to problems such as the abandonment of the land following the emigration of the men, it is the women who are assuming the management of the plot, although because of their illiteracy, excessive work-load and the attention they must devote to their families they have no access to normal training courses.

Women do not genuinely participate at all levels. Although their opinion may be decisive within the family, women's influence is felt only within the family circle. There is evidence that this situation is changing, although very slowly.

On the question of medical care in rural areas, the country lacks an effective infrastructure and the resources with which to provide "adequate" services, although there are legal provisions of a general nature regarding rural women and health.

In the area of social security, Law No. 24645 of January 1987 extended health care coverage to field workers and the members of agricultural groups, settlements and communities and to other categories of persons. There is still no systematic information with regard to the results.

Women members of jointly owned agricultural communities, because of their status as such, are entitled to full participation in the community (Law No. 24656 of 1987) on a basis of parity with male community members.

The Government has encouraged the formation of "mothers' clubs" and women's organizations, with the ability to draw large numbers of members, for the purpose of being able to finance alternative strategies and develop programmes in response to common requirements and objectives in terms of a higher standard of living. In rural areas, clubs have been formed under the auspices of the Government and of private initiative.

On 15 January 1987, the Ministry of Justice issued Supreme Decree No. 001-87-JUS, which granted facilities for the registration of associations, mothers' clubs and the like in recognition of the advantages to be gained by having these groups focus their activities on areas regarded as non-traditional for women. In practice, what is happening is that there is a proliferation of these clubs in rural areas, which has given rise to a confused situation as to whether certain of them are genuinely representative or not.

On the question of access to agricultural credit and loans, although the Agrarian Bank, as the competent agency, professes a policy of openness, in practice a woman seeking a loan faces discrimination because she is not regarded as creditworthy, owing in principle to the problem of land tenure and the granting of guarantees.

With the enactment of the National Population Policy Law, Legislative Decree No. 346, priority was given to the development of the most backward rural zones, consistent with respect for the rights of the communities and natives and with guarantees, inter alia, of radical and educational

The socio-economic situation will tend to remain unchanged so long as certain traditional structures are maintained and so long as the effort is limited to modifying the effects of those structures.